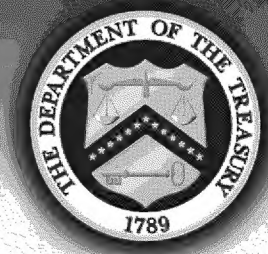


Interagency Review of Federal Automated Export Licensing Systems

March 29, 2002



Prepared by the
**Offices of Inspector General
of the
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Abstract

Public Law 106-65, National Defense Authorization Act for FY 2000, section 1402, requires the President to submit an annual report to Congress, by March 30 of each year through 2007, on the transfer of militarily sensitive technology to countries and entities of concern. The National Defense Authorization Act further requires that the Inspectors General of the Departments of Commerce (Commerce), Defense (Defense), Energy (Energy), and State (State), in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, conduct an annual review of policies and procedures of the U.S. Government with respect to their adequacy to prevent export of sensitive technologies and technical information to countries and entities of concern. An amendment to section 1402(b), in section 1204 of the National Defense Authorization Act for FY 2001, further requires that the Inspectors General include in the annual report the status or disposition of recommendations set forth in previous annual reports under section 1402. To comply with the first-year requirement of the National Defense Authorization Act, the Offices of the Inspectors General (OIGs) conducted an interagency review of Federal agency compliance with the deemed export licensing requirements contained in the Export Administration Regulations and the International Traffic in Arms Regulations. To comply with the second-year requirement of the Act, the OIGs conducted an interagency review to assess policies and procedures for developing, maintaining, and revising the Commerce Control List and the U.S. Munitions List. This year, to comply with the third-year requirement of the Act, the OIGs conducted an interagency review of Federal automation programs that support the export licensing and review process. Because the Department of the Treasury, Customs Service, reviews completed export licenses and exchanges law enforcement information by way of a nationwide system with Commerce and other Federal agencies, the Department of the Treasury (the Treasury) OIG also participated in the interagency review.

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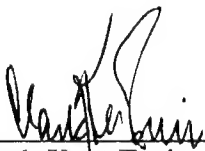
PREFACE

We are providing this report for review and comment. This review was undertaken as a cooperative effort of the Inspectors General of the Departments of State, the Treasury, Defense, Commerce, and Energy. This review was conducted in response to Public Law 106-65, National Defense Authorization Act for FY 2000, section 1402. The law requires that the Offices of Inspector General at the Departments of State, Defense, Commerce, and Energy provide an annual report to the Congress through 2007 on the transfer of militarily sensitive technologies to countries and entities of concern. Because the Department of the Treasury, Customs Service, reviews completed export licenses and exchanges law enforcement information with Commerce and other Federal agencies, the Department of the Treasury Office of Inspector General also participated in the interagency review. Our report this year focuses on the export licensing and review agencies' efforts to modernize their automated licensing systems and better interface with each other to improve the U.S. Government licensing process.

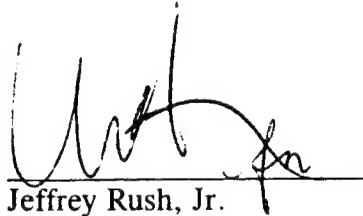
This report addresses issues that affect more than one agency and includes separate appendixes that contain the agency-specific reports that address the issues related to a specific agency.

We considered management comments on a draft of this report when preparing the final report. In addition, agency comments on agency reports were requested and obtained from the appropriate officials of each agency and were considered for preparation of this report. Copies of the complete responses from the agencies are included in the Management Comments section of this report.

We hope that this joint report will be useful in shaping the future of the Federal automated export licensing process.



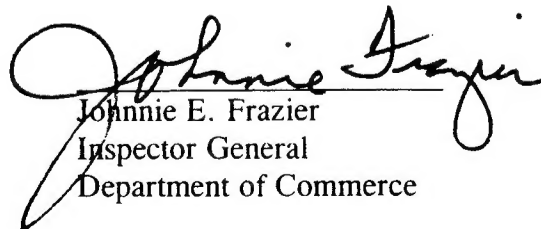
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Report No. D-2002-074

March 29, 2002

**Interagency Review of Federal Automated Export
Licensing Systems**

Executive Summary

Introduction. Public Law 106-65, National Defense Authorization Act for FY 2000, section 1402, requires the President to submit an annual report to Congress, by March 30 of each year through 2007, on the transfer of militarily sensitive technology to countries and entities of concern. The National Defense Authorization Act further requires that the Inspectors General of the Departments of Commerce (Commerce), Defense (Defense), Energy (Energy), and State (State), in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, conduct an annual review of policies and procedures of the U.S. Government with respect to their adequacy to prevent export of sensitive technologies and technical information to countries and entities of concern. An amendment to section 1402(b), in section 1204 of the National Defense Authorization Act for FY 2001, further requires that the Inspectors General include in the annual report the status or disposition of recommendations set forth in previous annual reports under section 1402.

To comply with the first-year requirement of the National Defense Authorization Act, the Offices of the Inspectors General (OIGs) conducted an interagency review of Federal agency compliance with the deemed export licensing requirements contained in the Export Administration Regulations and the International Traffic in Arms Regulations. To comply with the second-year requirement of the Act, the OIGs conducted an interagency review to assess policies and procedures for developing, maintaining, and revising the Commerce Control List and the U.S. Munitions List. This year, to comply with the third-year requirement of the Act, the OIGs conducted an interagency review of Federal automation programs that support the export licensing and review process. Because the Department of the Treasury, Customs Service, reviews completed export licenses and exchanges law enforcement information by way of a nationwide system with Commerce and other Federal agencies, the Department of the Treasury (the Treasury) OIG also participated in the interagency review.

Objectives. Our overall objective was to determine whether the current automated systems that Commerce, Defense, Energy, State, and the Treasury use to support the export license approval and review process were effective and whether system modernization initiatives were in accordance with Federal policies and regulations. Specifically, we reviewed processes and planned improvement initiatives for the dual-use and munitions export licensing environments. In addition, we assessed the interagency efforts of the U.S. Export Systems Interagency Program Management Office, a Defense effort designed to help modernize the overall export licensing process.

Review Results.

Dual-Use Export Licensing Environment. The dual-use export licensing process involves multiple automated systems owned and operated by the different Federal licensing and review agencies. Many of those systems are no longer effective for the present era of export license processing. Overall limitations of those systems

include differing security standards among agencies, cumbersome manual and paper-based processes, and no comprehensive database of export information available to assist in assessing the cumulative effect of multiple exports. Dual-use export licensing agencies have made progress in modernizing their automated systems. However, those agencies can do more to coordinate their systems modernization efforts and may not have adequately considered other system alternatives beyond enhancing existing licensing system interfaces.

Munitions Export Licensing Environment. The munitions export licensing process involves multiple automated systems and is inefficient and unnecessarily burdensome, partially because of the uncoordinated manner in which State and other Federal agencies introduced licensing systems. State has taken steps to upgrade some aspects of its automated internal processes. However, State's approach does not include adequate risk management, identification of requirements, or coordination with industry and other Federal agencies involved in the licensing process. By working together with the other Federal agencies and exporters and building upon agency munitions initiatives that are underway, State could lead the way to provide secure, integrated systems that could streamline the Federal munitions export licensing process.

U.S. Export Systems Interagency Program Management Office. To address interoperability concerns across agency lines, Defense created the U.S. Export Systems Interagency Program Management Office. The U.S. Export Systems Interagency Program Management Office has achieved much in partnership with Commerce by planning and implementing some improvements in the export licensing process for dual-use commodities. However, the U.S. Export Systems Interagency Program Management Office is not meeting its original goal to modernize the entire Federal export licensing process by providing participating agencies with electronic access to pertinent export data. Specifically, the program lacks full participation by State and other involved entities, key project milestones have slipped, and funding requirements have not been sufficiently documented. As a result, the U.S. Export Systems Interagency Program Management Office has been unable to fully address inefficiencies, identify requirements, and streamline the Federal munitions export licensing process.

Summary of Recommendations. We recommend that the Secretary of Commerce, in conjunction with the Secretaries of Defense, Energy, State, and the Treasury, take the necessary actions to establish accountability for developing, integrating, and modernizing Federal automated dual-use export licensing systems without unnecessary duplication. At a minimum, those actions should include the formation of a senior-level organizational structure, such as an interagency working group or steering committee, to oversee the systems development effort. We also recommend that the Secretary of State develop a memorandum of understanding with the Secretaries of Defense, Energy, and the Treasury that will help ensure that Federal automated munitions export licensing systems are developed, integrated, and modernized without unnecessary duplication. The memorandum of understanding should identify an organizational structure, such as an interagency working group or steering committee, to oversee the systems development effort. Finally, we recommend that the Secretary of Defense continue to work with Commerce, Energy, and State to improve and better integrate Defense's role in reviewing and processing dual-use and munitions export licenses. In addition, we recommend that the Secretary of Defense redirect the primary focus of the U.S. Export Systems Interagency Program Management Office to automating, integrating, and modernizing Defense's processes for disseminating and reviewing export license applications and associated technical documentation within Defense.

Commerce Comments. The Under Secretary for Export Administration responded for the Secretary of Commerce. The Under Secretary for Export Administration concurred that the Federal automated dual-use export licensing systems should be developed and modernized without unnecessary duplication. However, the Under Secretary did not agree that the issue is best resolved by developing a memorandum of understanding at the Secretary level, as recommended in the draft report. Instead, the Under Secretary thought that the best course of action would be to assign responsibility for this task to the appropriate operating units within Commerce, Defense, Energy, State, and the Treasury. The Under Secretary also proposed that an interagency mechanism, such as the existing U.S. Export Systems Interagency Program Management Office Steering Committee or a similar working group, be used to satisfy the OIG recommendation of developing, integrating, and modernizing dual-use export licensing systems without duplication.

State Comments. The Assistant Secretary of State, Bureau for Political-Military Affairs responded for the Secretary of State. The Assistant Secretary for Political-Military Affairs concurred with the recommendation that State take the lead in developing a memorandum of understanding with several agencies to address information technology systems and coordination requirements. The Assistant Secretary stated that he would assume executive-level oversight for the Bureau for Political-Military Affairs and, as need be, the Department, in exploring development of an agreement regarding the role and coordination of respective agency automation efforts in the munitions export licensing process.

Defense Comments. The Acting Deputy Under Secretary of Defense (Policy Integration) responded for the Secretary of Defense. The Acting Deputy Under Secretary nonconcurred with both draft recommendations to develop memorandums of understanding, stating that memorandums of understanding will do little to advance the progress of information sharing. The Acting Deputy Under Secretary suggested a revised recommendation to form an Interagency Operations Committee for controlling future iterations of automated export information exchange among participating agencies. The Acting Deputy Under Secretary did not respond to the recommendation to continue to work with Commerce and State to improve and better integrate Defense's role, and nonconcurred with the recommendation to redirect the focus of the U.S. Export Systems Interagency Program Management Office. The Acting Deputy Under Secretary stated that the recommendation is contrary to the precepts of both the Clinger-Cohen Act and applicable Defense regulations and that implementation of the recommendation will result in the program office losing the opportunity to leverage its accomplishments into future interagency cooperation.

Energy Comments. The Associate Administrator for Management and Administration, National Nuclear Security Administration, Department of Energy responded for the Secretary of Energy. The Associate Administrator concurred with the draft report and the recommendations.

The Treasury Comments. The Secretary of the Treasury did not comment on the draft report.

Interagency OIG Response. The individual licensing agencies have not adequately risen above their mission-related issues, interests, and responsibilities to be able to develop integrated interagency licensing systems that are both efficient and effective. Therefore, the suggestion of both Defense and Commerce for an Interagency Operations Committee or similar working group has merit. We revised our recommendations to reflect the option of creating such an interagency organization.

However, we also recognize the need for the agencies involved in the licensing process to have the flexibility for deciding among themselves the precise roles and preferred approach of promoting information sharing and overseeing interagency coordination.

The intention of the recommendation to refocus U.S. Export Systems Interagency Program Management Office efforts is not to end the cooperation among Commerce, Defense, and State, but rather to ensure Defense resources are focused on resolving significant export license application review process inefficiencies within Defense, such as disseminating license applications and associated technical documentation to widely dispersed geographic locations, that will provide benefits for Defense organizations and make Defense participation in the interagency licensing review process more efficient and effective. We agree that the accomplishments already achieved by the cooperation between the U.S. Export Systems Interagency Program Management Office and Commerce should be leveraged into future cooperation among all of the Federal licensing and review agencies.

We reiterate our recommendation that the Secretary of Commerce, in conjunction with the Secretaries of Defense, Energy, State, and the Treasury, take the necessary actions to establish accountability for developing, integrating, and modernizing Federal automated dual-use export licensing systems without unnecessary duplication. At a minimum, these actions should include the formation of a senior-level organizational structure, such as an interagency working group or steering committee, to oversee the systems development effort.

We request that the Secretaries of State, Defense, and Commerce provide comments on the revised recommendations on the dual-use and munitions export licensing environments and provide additional comments with specific plans and dates for implementing all of the recommendations.

Followup to Prior Interagency Reviews. Appendix B contains the current status of recommendations made by each agency during prior export control reviews, as required by the amendment to section 1402 of the National Defense Authorization Act for FY 2001.

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Acronyms

AES	Automated Export System
CIA	Central Intelligence Agency
DETRA	Defense Trade Application
ECASS	Export Control Automated Support System
FORDTIS/TPS	Foreign Disclosure and Technical Information System/ Technology Protection System
OIG	Office of the Inspector General
PINS	Proliferation Information Network System
PKI	Public Key Infrastructure
SNAP/ESD	Simplified Network Application Processing/Electronic Support Documentation System
USXPORTS	U.S. Export Systems

Background

Introduction. In August 1998, the Chairman of the Senate Committee on Government Affairs requested that the Inspectors General from the Departments of Commerce (Commerce), Defense (Defense), Energy (Energy), State (State), the Treasury (the Treasury), and the Central Intelligence Agency (CIA) conduct an interagency review of the export licensing processes for dual-use commodities and munitions. The objective of the review was to determine whether practices and procedures were consistent with national security and foreign policy objectives. An Interagency Offices of the Inspectors General (OIG) Report No. 99-187, "Interagency Review of the Export Licensing Processes for Dual-Use Commodities and Munitions," was issued in June 1999.

Public Law 106-65, National Defense Authorization Act for FY 2000, section 1402, "Annual Report on Transfer of Militarily Sensitive Technologies to Countries and Entities of Concern," October 5, 1999, requires the President to submit an annual report to Congress, from year 2000 through year 2007, on the transfer of militarily sensitive technology to countries and entities of concern. The National Defense Authorization Act further requires that the Inspectors General of Commerce, Defense, Energy, and State, in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, conduct an annual review of policies and procedures of the U.S. Government with respect to their adequacy to prevent export of sensitive technologies and technical information to countries and entities of concern. An amendment to section 1402(b), in section 1204 of the National Defense Authorization Act for FY 2001, further requires that the Inspectors General include in the annual report the status or disposition of recommendations that have been set forth in previous annual reports under section 1402.

To comply with the first-year requirement of the National Defense Authorization Act, the OIGs conducted an interagency review of Federal agency compliance with the deemed export licensing requirements contained in the Export Administration Regulations and International Traffic in Arms Regulations. Two interagency reports, "Interagency Review of the Export Licensing Process for Foreign National Visitors" and "Interagency Inspectors General Assessment of Measures to Protect Against the Illicit Transfer of Sensitive Technology," were issued in March 2000. To comply with the second-year requirement of the Act, the OIGs conducted an interagency review to assess policies and procedures for developing, maintaining, and revising the Commerce Control List and the U.S. Munitions List. The report, "Interagency Review of the Commerce Control List and the U.S. Munitions List," was issued in March 2001. This year, to comply with the third-year requirement of the Act, the OIGs conducted an interagency review of Federal automation programs

that support the export licensing and review process.¹ Because the Department of the Treasury, Customs Service, reviews completed export licenses and exchanges law enforcement information by way of a nationwide system with Commerce and other Federal agencies, the Treasury OIG also participated in the interagency review.

Objectives

Our overall objective was to determine whether the automated systems that Commerce, Defense, Energy, State, and the Treasury used to support the export license approval and review process were effective and whether system modernization initiatives were in accordance with Federal policies and regulations. Specifically, we reviewed processes and planned system improvement initiatives for the dual-use and munitions export licensing environments. In addition, we assessed the interagency efforts of the U.S. Export Systems Interagency Program Management Office, a Defense effort designed to help modernize the overall export licensing process.

¹The CIA OIG declined to participate in the review because of its tangential role in the development of an automated Federal export licensing system.

A. Dual-Use Export Licensing Environment

The dual-use export licensing process involves multiple automated systems owned and operated by the different Federal licensing and review agencies. However, many of those systems are no longer effective for the present era of export license processing. Some of the overall limitations include differing security standards among agencies, cumbersome manual and paper-based processes, and no comprehensive database of export information to help Federal agencies assess the cumulative effect of multiple exports. According to the Office of Management and Budget Circular No. A-130, "Management of Federal Information Resources," February 8, 1996, Federal agencies should ensure that improvements to existing information systems and development of planned information systems do not unnecessarily duplicate existing information systems. Dual-use export licensing agencies have made progress in modernizing their automated systems. However, those agencies can do more to coordinate their systems modernization efforts and need to adequately consider other system alternatives for license processing needs beyond enhancing the interfaces with existing licensing systems.

Background

The Export Administration Act of 1979, as amended (Appendix 2401, title 50, United States Code),² provides the primary legislative authority for export of dual-use commodities. Under the Act, Commerce's Bureau of Export Administration administers the Export Administration Regulations by developing export control policies, issuing export licenses, and enforcing the laws and regulations for dual-use exports.³

However, in response to the need for more transparency in the dual-use export licensing process, the President issued Executive Order 12981, dated December 5, 1995. Specifically, Executive Order 12981 provides Defense, Energy, and State the authority to review any license application that Commerce receives. The Executive Order also authorizes the Department of Justice (Justice) to review any export license application pertaining to encryption items. In addition, Commerce sends certain export license applications to the Weapons

²Although the Act expired on August 20, 2001, the President extended existing export regulations under Executive Order 13222, dated August 17, 2001, invoking emergency authority contained in the International Emergency Economic Powers Act.

³Commerce shares enforcement responsibilities with the Treasury's Customs Service.

Intelligence, Nonproliferation, Arms Control Group of the CIA for end-user review. Approximately 86 percent of dual-use export license applications are referred to reviewing agencies.

Exporters can submit export license applications to Commerce either manually or electronically. In FY 2000, 61 percent of the 10,843 export license applications that Commerce received were electronically submitted. After Commerce receives a license application, the application information is entered into the Export Control Automated Support System (ECASS). Regardless of how the exporter submits the license application, the supporting documentation for the application must be sent in hard copy format.⁴ The supporting documentation is then manually duplicated and hand delivered to the review agencies, as appropriate.

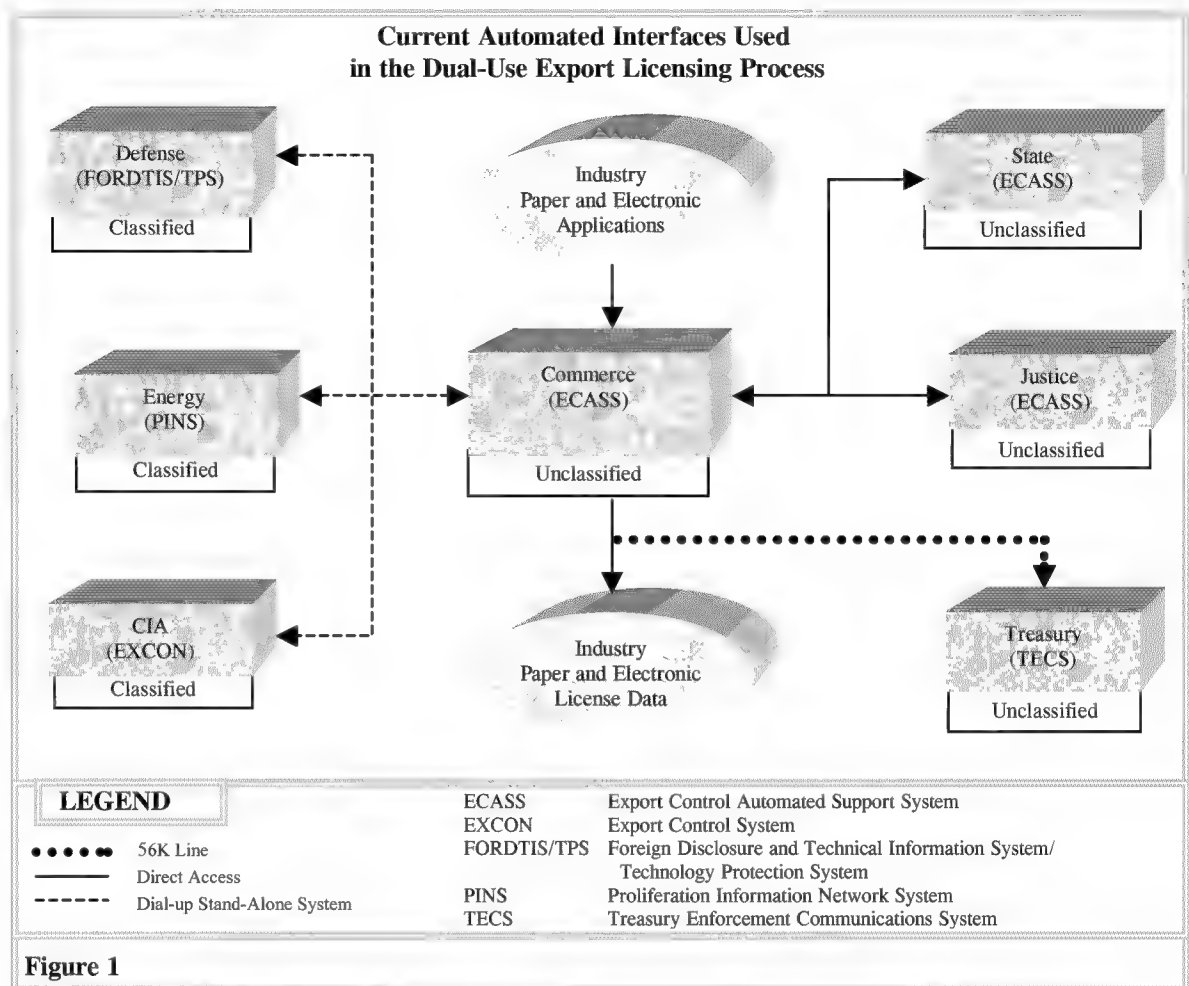
Both State and Justice have direct access to ECASS and use the system to process license applications referred to them. However, because Defense,⁵ Energy, and the CIA have classified systems, Commerce sends the unclassified export license information by way of dial-up lines to stand-alone personal computers at those agencies. Defense, Energy, and the CIA then put the information on a diskette and upload the information to respective classified systems, thereby ensuring the integrity of the systems.

Finally, Commerce's Bureau of Export Administration electronically transmits validated licensing information daily (for cases approved, denied, or returned without action) over a dedicated 56K data line to the Customs Service. The data is then entered into the Customs Service Treasury Enforcement Communications System database.⁶ The data are extracted nightly from the database and loaded into the Automated Export System (AES). The Customs Service and Commerce's Bureau of Census developed AES as a joint effort. AES was designed to automate and streamline the process of filing a Shipper's Export Declaration and the manifest of an outbound shipment to improve the accuracy of commodity data used to compile trade statistics, improve overall compliance with export control laws and regulations, and streamline the trade process. Figure 1 shows the agencies involved in the dual-use licensing process and the interfaces used to transmit data.

⁴Supporting documentation includes diagrams, schematics, or other information that describes the product to be exported as well as additional information concerning the end user or end use of the product.

⁵As a result of Defense's recent Classification Domain Decision on December 14, 2001, Defense can migrate some of its export licensing data to an unclassified environment in the near future. Defense is studying adequate security safeguards for export licensing data.

⁶The database was created to provide multiagency access to a common database of law enforcement data supplied by law enforcement agencies.



Source: Commerce Office of Inspector General

The Current Dual-Use Export Licensing Environment

Office of Management and Budget Circular No. A-130 requires Federal agencies to develop information systems that facilitate interoperability across networks of diverse hardware, software, and telecommunications platforms. However, the dual-use export licensing systems have numerous limitations, including differing security standards across Federal agencies, cumbersome manual and paper-based processes, and no comprehensive database of exporting information to help Federal agencies assess the cumulative effect of multiple exports.

Security Standards. The dual-use export licensing systems lack common security standards across Federal export licensing and reviewing agencies. The dual-use export licensing process comprises a broad range of systems and applications that reflect the evolving and unique needs of each export licensing

agency. As a result, information sharing across Federal systems can be a technically challenging process. For example, the export licensing agencies have a variety of security standards. Business proprietary information contained in any automated export licensing system must be protected. Use of public key infrastructure (PKI) technology is one way of doing so.⁷ Defense and Energy have PKI standards and Commerce, State, and the Treasury are developing PKI standards. When automated systems that need to be interoperable do not have compatible or equivalent PKI standards, system information assurance certifications for those systems are difficult to obtain. If each system is already certified, but the certifications required differing PKI standards, connecting the systems and retaining each system's certification is also difficult. Commerce and Defense hope to address the issue when the two agencies implement a pilot PKI program in May 2002 that will test potential solutions for PKI.

Manual and Paper-Based Processes. The dual-use export licensing process is primarily manual and paper intensive. The Paperwork Reduction Act of 1995 requires agencies to acquire, manage, and use information technology to improve mission performance and minimize the burden of information collection on the public. However, despite efforts toward automation, the export licensing process continues to involve large amounts of paper. While approximately 61 percent of dual-use license applications are submitted electronically, supporting documentation is still provided in hard copy. The supporting documentation can range from a few sheets of paper to hundreds of pages.

As an example of the range in supporting documentation, Commerce requires exporters to transmit dual-use supporting documentation in hard copy format. Commerce duplicates the documents and then delivers them by way of courier to the review agencies—a procedure that adds time and expense to the licensing review process.⁸ For the dual-use license applications that Defense reviews, export license applications and supporting documentation are repeatedly copied, reviewed, and shipped from and to numerous locations. In FY 2000, Defense spent almost \$500,000 copying dual-use export license applications and close to \$150,000 delivering documentation to organizations that perform technical analyses. Also, in FY 2000, Defense produced approximately 11.2 million pages of paper copies of export license applications and supporting documentation.

Tracking Cumulative Effect. The dual-use export licensing process lacks an overall mechanism, automated or otherwise, for assessing the cumulative effect of exports or technology transfers. The National Defense Authorization Act for FY 2000 mandates that, by March 30 of each year through 2007, the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the Director of the CIA, assess the cumulative impact of export licenses granted for exports to countries and entities of concern. As of November 2001, Defense began gathering information required to complete the assessment, but had not

⁷PKI is a technology designed to protect Internet electronic transactions through digital certificates and encryption keys. Digital certificates are used to verify and authenticate the validity of each party involved in an Internet transaction, and encryption keys are used to secure the data.

⁸Commerce and Defense are working on a solution to address this problem. See the Dual-Use Export Licensing Improvement Initiatives section for details.

completed the assessment or taken further actions. The inability to track cumulative effect can have adverse consequences. Individual exports and technology transfers may appear benign if taken one by one. However, when combined with multiple exports from the United States and other countries and indigenous resources, the exports and technology transfers may allow U.S. adversaries to build weapons of mass destruction or obtain other capabilities that could threaten U.S. national security. Assessments of cumulative effect, resulting from a proposed export or category of exports, would be valuable to have during the export licensing review process for countries or entities of concern. Such assessments would need to consider technology transfers that result from dual-use and munitions exports, foreign military sales, and third-country sales to foreign countries, as well as the internal capabilities of a specific country. Consequently, the ability to effectively assess the cumulative effect of exports and technology transfers will require coordination, increased resources, and a comprehensive information database shared among all of the licensing agencies involved in the export licensing process.

Dual-Use Export Licensing Improvement Initiatives

The agencies involved in the dual-use export licensing and review process have been individually and collectively making improvements to their export licensing systems. Commerce, Defense, Energy, and the Treasury have completed, or are in the process of determining, the system enhancements needed for individual export licensing and enforcement systems.

Commerce. Commerce has long needed to replace its ECASS to effectively administer export control laws and regulations. During the recent review, the Commerce OIG found that Commerce has made progress in the development of a modernized ECASS 2000+ system, a redesign of its current ECASS system. However, for the project to be successful, the project will need dedicated resources, better planning, and continuous oversight by management and departmental personnel of the Bureau of Export Administration.

Commerce has made progress on its ECASS 2000+ project. Specifically, Commerce (1) appointed an ECASS 2000+ project manager in March 2000, bringing direction and stability to the redesign effort; (2) developed, in conjunction with Defense, a “front-end” licensing subsystem, known as the Simplified Network Application Processing/Electronic Support Documentation (SNAP/ESD), that will allow exporters to submit on-line all types of license applications as well as the corresponding supporting documentation; and (3) selected software for its new Export Enforcement Investigative Tracking System. As a result, two components of ECASS 2000+ should be ready for implementation in early to mid-2002.

However, the Commerce redesign efforts need improvement in three key areas. First, Commerce needs better planning of the project to ensure long-term success, such as determining what business process reengineering recommendations need to be implemented, preparing a revised cost estimate for

its system redesign, and determining all of the ECASS 2000+ requirements. Second, Commerce needs to strengthen its modernization effort by implementing established information technology management best practices, such as a project management plan, a target architecture, and configuration management and risk management processes. Third, interagency cooperation on planning, design, and development has been mixed because Commerce has not involved the other licensing agencies in its own redesign effort beyond SNAP/ESD. For example, Commerce is developing ECASS licensing requirements without input or validation from the current review agency users (State and Justice) or potential review agency users (Defense). Both State and Justice currently use ECASS to process license applications referred to them, and Defense could use ECASS in the future now that Defense has determined that an unclassified licensing system can be used. As such, the other licensing and review agencies should be included in the development of licensing requirements for any new system (see Appendix C).

Defense. To address interoperability concerns across agency lines, Defense created the U.S. Export Systems (USXPORTS) Interagency Program Management Office, which is working with Commerce to develop SNAP/ESD. Defense's dual-use export license application review process is paper driven and requires export license applications and supporting documentation to be repeatedly copied, reviewed, and shipped from and to numerous locations. The Foreign Disclosure and Technical Information System/Technology Protection System (FORDTIS/TPS),⁹ the Defense export control system, is a Secret-level classified system with limited accessibility that does not have direct connectivity to ECASS (see Appendix D). Defense is working with Commerce to develop SNAP/ESD and establish a dedicated T-1 line¹⁰ to improve connectivity between the two agencies and support the electronic exchange of dual-use export licensing approval and review information (see the USXPORTS Interagency Program Management Office section of this report for more details). However, planning for an automated Defense export licensing system that takes advantage of the improved connectivity provided by the T-1 line just began.

Energy. Energy's Proliferation Information Network System (PINS) is frequently upgraded to improve the dual-use export license application process. Recent efforts include adding to PINS nuclear data that will enhance the licensing officer's review of dual-use license applications referred to Energy by Commerce. Those reference materials include data provided by the Nuclear Suppliers Group¹¹ concerning export license denials by group members and information on proposals, such as joint projects between members of the

⁹FORDTIS/TPS is the primary Defense system for coordinating, reviewing, and deciding on requests to release sensitive military information and technology to other countries.

¹⁰A T-1 line is a high-speed connection that will enable faster transmission of data between the respective agencies.

¹¹The Nuclear Suppliers Group is a multilateral control regime, comprised of 39 countries, that sets controls on nuclear material, equipment, and technology unique to the nuclear industry and on dual-use items that have both nuclear and non-nuclear commercial and military applications.

Nuclear Suppliers Group and nations of the former Soviet Union. Analytical tools such as keyword searches and customized data searches have also been added to PINS.

Energy OIG determined that communication between Energy and Commerce, which refers the majority of licenses reviewed by Energy, appears to be adequate. However, Energy does not receive information regarding the final purchase and/or shipment of a commodity once a license has been approved. Energy OIG was informed that the Treasury AES includes data about the final purchase and/or shipment of a commodity and that access to AES could enhance Energy's review of export license applications. Energy OIG recommended that Energy coordinate with the Customs Service at the Treasury and the Bureau of Census at Commerce to ensure access by Energy to the information in AES (see Appendix E).

The Treasury. No specific automation initiatives now exist between the Treasury's Customs Service and Commerce regarding connectivity of their systems. Currently, a memorandum of understanding that provides the Bureau of Export Administration read-only access to records filed by the trade community in AES exists between Commerce's Bureau of Export Administration and the Treasury's Customs Service.

The FY 2003 mandatory AES filing provisions for Shipper's Export Declarations that the Proliferation Prevention Enhancement Act requires will provide a significant amount of export information to the export enforcement community on a more timely basis. As a result, the Bureau of Export Administration and the Customs Service will be better equipped to enhance protection against illegal exports to countries or to end users involved in developing weapons of mass destruction, activities supporting terrorism, or other prohibited end uses.

Interagency Approach Needed For Improved Automation

Our 1999 interagency OIG report on the dual-use export licensing process cautions that without improved coordination among the licensing agencies, the simultaneous development of multiple and distinct export licensing automation systems will continue. The Clinger-Cohen Act requires agencies to identify information technology investments that could result in shared benefits or costs for other Federal agencies or local governments. Further, the Office of Management and Budget Circular No. A-130 requires Federal agencies to cooperate on the use of information technology to improve productivity, efficiency, and effectiveness of interagency processes and ensure that planned developments or improvements to existing information systems do not unnecessarily duplicate other information technology initiatives.

While the dual-use export licensing agencies have taken some steps to participate and coordinate with each other and reviewing agencies to improve the current automated systems that support the process, none of the agencies has a clear plan of how they will continue to work together. Further, because the

agencies are developing licensing systems independently, dual-use export licensing agencies may not be adequately evaluating other system alternatives for export license processing needs beyond enhancing interfaces with existing licensing systems and creating the common electronic technical library, SNAP/ESD. For example, Defense identified several alternatives that could improve the export licensing process, including a hybrid “system of systems” and a single Federal dual-use licensing system.

Hybrid System of Systems. The hybrid system of systems is designed to house all of the license and supporting data that industry submits in a single database that each licensing and reviewing agency could access. However, each export licensing agency would build or maintain its own licensing subsystem unique to agency needs and functions.

Single Federal Unified Interagency Licensing System. A single Federal unified interagency licensing system could be developed to replace and integrate all of the Federal export licensing automated systems that support the export license review process. The system could incorporate the data that industry submits, each agency position, and any unique agency requirements (for example, enforcement).

The interagency OIG review team agrees that the hybrid system-of-systems alternative offers a more integrated export licensing process environment than the prevailing system. In fact, at least one of the features of that alternative is being developed. Specifically, while the hybrid system-of-systems option includes a central repository for the data records that pertain to an export license, the SNAP/ESD subsystem that Commerce and Defense are developing will, in effect, be a central repository for electronically submitted supporting documentation. We believe that effort could easily be expanded to incorporate the remainder of the license record, including (1) license application data, (2) referral history, and (3) case disposition.

We believe that Commerce and the review agencies can effectively use, at a minimum, one data repository to provide user access to all of the dual-use export licensing data while allowing agencies to maintain control of their respective databases for their internal review process. Aside from the efficiency and timeliness gains associated with the alternative, a central repository of license data will also provide a tool for cumulative effect analysis that can be used in processing future relevant licensing cases.

Further, we believe there could be savings and efficiency gains, such as merging computer facilities, standardizing hardware and software, and reducing systems support staff, in having a single Federal dual-use licensing system. However, we realize that three of the six export licensing agencies—Defense,¹² Energy, and the CIA—currently operate in a classified environment, which may make the development of a single dual-use licensing system harder to achieve at this

¹²According to Defense, its export license data is primarily unclassified. In addition, Defense recently completed an Operational Security study that concluded that the compilation of its classified export license data does not need to be classified based on the aggregation of the data.

time. On the other hand, if Defense decides to migrate its unclassified export license data to an unclassified environment in the near future, the single Federal dual-use licensing system may be feasible for Commerce, Defense, Justice, and State. As noted above, Commerce, Justice, and State are already using the ECASS system. Thus, Commerce and Defense should explore the best methods available to meet Defense's dual-use export licensing review needs.

Finally, to forge improved cooperation and coordination, all of the participants need to take the necessary actions that will ensure dual-use export licensing systems are developed, integrated, and modernized without unnecessary duplication. Actions taken should include outlining the responsibilities of each agency to ensure maximum interagency cooperation and coordination in the licensing of controlled exports.

Recommendation, Management Comments, and OIG Response

In response to draft comments received from Commerce and Defense, we revised the recommendation to exclude a memorandum of understanding and include the formation of a senior level organizational structure to oversee the systems development effort.

A. We recommend that the Secretary of Commerce, in conjunction with the Secretaries of Defense, Energy, State, and the Treasury, take the necessary actions to establish accountability for developing, integrating, and modernizing Federal automated dual-use export licensing systems without unnecessary duplication. At a minimum, these actions should include the formation of a senior-level organizational structure, such as an interagency working group or steering committee, to oversee the system development efforts. This entity should undertake the following:

- 1. Create a charter outlining the responsibilities of each agency in the design, development, and operation of a dual-use licensing system and how each agency will coordinate its automation efforts;**
- 2. Build on recent interagency efforts to modernize the interagency automated systems for processing export license applications;**
- 3. Develop a common central repository for all unclassified data records that pertain to the review and approval of an export license; and**
- 4. Establish performance goals and metrics to track the progress of the system development efforts and report on the interagency entity's activities on a semiannual basis to the respective Secretaries.**

Defense Comments. The Acting Deputy Under Secretary of Defense (Policy Integration) responded for the Secretary of Defense. The Acting Deputy Under Secretary nonconcurred with the draft recommendation stating that a

memorandum of understanding will do little to advance the progress of information sharing. The Acting Deputy Under Secretary suggested a revised recommendation to form an Interagency Operations Committee for controlling future iterations of automated export exchange among participating agencies.

Commerce Comments. The Under Secretary for Export Administration responded for the Secretary of Commerce. While the Under Secretary agreed that the Federal automated dual-use export licensing systems should be developed and modernized without unnecessary duplication, he did not agree that this issue is best resolved by developing a memorandum of understanding at the Secretary level, as recommended in the draft report. Instead, the Under Secretary thought that the best course of action would be to assign responsibility for this task to the appropriate operating units within Commerce, Defense, Energy, State, and the Treasury. The Under Secretary also proposed that an interagency mechanism, such as the existing USXPORTS Steering Committee or a similar working group, be used to satisfy the OIG recommendation of developing, integrating, and modernizing dual-use export licensing systems without duplication.

Commerce's Under Secretary stated that USXPORTS provides an excellent model of how organizations can meet regularly to understand and resolve issues related to export licensing systems design and implementation. He also stated that because the Bureau of Export Administration has not yet started to develop the licensing module of ECASS, now is an appropriate time to enlist officials at Defense, State, and Energy to participate in the design and development of the system. Finally, Commerce's response notes that with the implementation of SNAP/ESD in Spring 2002, a common central repository for unclassified technical documentation that pertains to the review and approval of a dual-use license application will be established.

Interagency OIG Response. While we agree that USXPORTS provides an excellent forum to discuss and resolve issues related to the modernization of the dual-use export control process among the participating agencies, we do not believe that such an effort alone can address some of the major policy commitments that need to be made. Currently, none of the agencies involved in USXPORTS efforts has a clear plan of how they will continue to work together once the SNAP/ESD project is complete. In addition, according to the Bureau of Export Administration's response to the Commerce OIG report on its ECASS modernization efforts, Defense's efforts (through its USXPORTS office) to fully engage all of the export licensing agencies to improve the interagency export licensing systems have not been successful. We agree and that is why we recommended that the commitment to develop the interagency licensing systems come from the Secretary level. At the current interagency working group level, insufficient commitment to work together is present. The individual licensing agencies have not adequately risen above their mission-related issues, interests, and responsibilities to be able to develop integrated interagency licensing systems that are both efficient and effective.

Therefore, we reiterate our recommendation for Commerce, in coordination with the referral agencies, to take the necessary actions that will ensure dual-use export licensing systems are developed, integrated, and modernized without

duplication. Actions taken should include outlining the responsibilities of each agency involved in the process to ensure maximum interagency cooperation and coordination in the licensing of controlled exports. We agree with Commerce and Defense that an interagency steering committee or working group should be established to help coordinate the various modernization efforts. However, to ensure that such a committee is effective, we believe Secretary-level commitment is needed.

Finally, while we commend Commerce for working with Defense to develop SNAP/ESD to house the unclassified technical documentation for license applications, we believe that such an effort should be expanded to include all of the licenses and pertinent information, not singly technical data. Currently, only one referral agency (State) has the ability to centrally view application data, agency comments on license applications, and final disposition on cases referred to it.¹³ However, by creating a central repository for unclassified export licensing data (including, at a minimum, license application data, referral history, and the final disposition of a case), each referral agency could have the information available when making a decision on a license application or other referral. As such, we reiterate our recommendation that Commerce, along with Defense, Energy, State, and the Treasury, develop a common central repository for unclassified data records that pertain to the review and approval of an export license application.

¹³The Bureau of Export Administration informed us that it previously developed subprograms for Defense and the CIA to view agency comments and final disposition of cases, but it is not sure if the subprograms are being used anymore.

B. Munitions Export Licensing Environment

The munitions export licensing process involves multiple automated systems owned and operated by Federal licensing and reviewing agencies. The munitions licensing process is inefficient and unnecessarily burdensome, in part because of the uncoordinated manner in which State and other Federal agencies introduced licensing systems. The process involves multiple, unintegrated systems and, consequently, extensive use of manual and paper-based processes, redundant input of information, and inadequate tracking mechanisms. As the munitions export license approval agency, State has taken some steps to upgrade its information technology capabilities. However, State's systems modernization approach focuses primarily on automating aspects of its internal processes and does not include adequate risk management, identification of requirements, or coordination with industry and other Federal agencies involved in the licensing process. By working together and building upon agency munitions initiatives that are underway, State can lead the way to provide secure, integrated systems that could streamline the Federal munitions export licensing process as a whole.

Background

The Arms Export Control Act (section 2751, title 22, United States Code) provides the primary legislative authority for munitions exports.¹⁴ Under the Arms Export Control Act, State is responsible for authorizing the export of munitions, which are goods and technologies the U.S. Munitions List designates as Defense articles and/or Defense services. State administers the Act through review of munitions export license applications prepared as required by the International Traffic in Arms Regulations. The regulations specify requirements and procedures that persons subject to U.S. jurisdiction must follow to send Defense articles and/or Defense services abroad.

The munitions export licensing process involves multiple agencies and automated systems. To ensure that exports are authorized in accordance with U.S. foreign policy, national security, and nonproliferation objectives, State refers some munitions export license requests to other State organizations and Federal agencies. Exporters can submit a munitions license application to State either by hard copy through the mail or courier, or electronically through the Internet or dial-up server. State requires that an exporter submit an original and eight copies of each license application along with supporting documentation. Approximately 60 percent of the 45,000 munitions export license applications received annually are electronically submitted to State. For those applications,

¹⁴The Arms Export Control Act authorizes the President to control the export of items included on the U.S. Munitions List. The President delegated this responsibility to the Secretary of State by Executive Order 11958, which was signed in January 1977.

supporting documentation must be provided in hard copy and then matched to a copy of the electronic license application. State will then enter information from the license application into its Defense Trade Application (DETRA) system, which State uses for tracking license applications, scanning and storing supporting documents or materials, and querying license status.

Figure 2 depicts the data exchange among agencies and exporters involved in the munitions export licensing process.

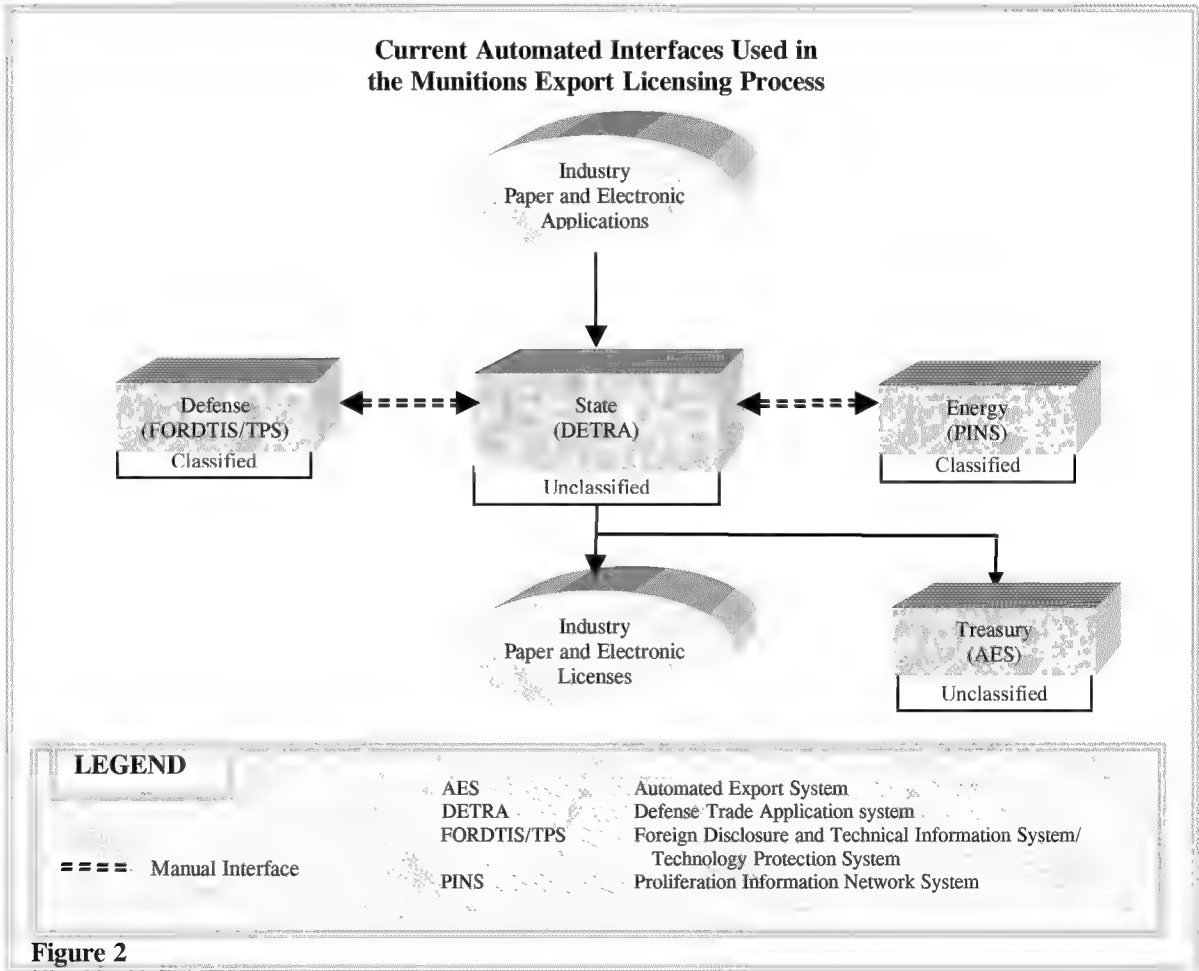


Figure 2
Source: State Office of Inspector General

More than one-half of the applications that State refers for review are sent to a variety of internal bureaus and offices. Those applications are transferred by interoffice mail, fax, or courier. However, approximately one-third of all of the munitions license applications are reviewed by other Federal agencies. Of the license applications that State sends out for external review, Defense receives more than 85 percent. On a daily basis, State delivers many boxes containing up to five copies of each application and supporting documentation to the Defense Technology Security Administration—the primary Defense Component that advises State on export license applications. After receiving an application from State, Defense enters summary data into the FORDTIS/TPS. Defense then sends the applications to various Military Departments and Defense Components for further review by technical experts. After technical review of the applications, Defense electronically sends its recommendations on munitions license applications to State. Occasionally, State receives applications regarding the export of items that can be used in the design, development, or fabrication of nuclear weapons, which it transmits in hard copy to Energy for review. When all of the external reviewer positions are received from the reviewing agencies on a given application, State enters the information into DETRA and, if appropriate, issues the approved license to the exporter.

Prior to shipment of munitions items, exporters send hard copies of Shipper's Export Declarations and approved export licenses to the Customs Service. When export licenses are approved, State sends the license data to the Customs Service. Both the exporter and State data are then entered into the Customs Service AES. The AES automatically matches the data to ensure compliance with the Arms Export Control Act. After the license expires or is depleted, the Customs Service returns a hard copy of the license to State for archiving.

Current Munitions Export Licensing Environment

As previously discussed, the U.S. munitions export licensing process comprises a broad range of systems and applications; however, the systems are not developed and operated in a coordinated manner. The Office of Management and Budget Circular No. A-130 requires that Federal agencies develop information systems to facilitate interoperability across networks of diverse hardware, software, and telecommunications platforms.

Connectivity. Limited connectivity exists among the Federal agency systems because of different operating systems, software applications, and data security standards. For example, State processes munitions license applications by way of DETRA, a stand-alone system without connectivity to either the web-based or dial-up applications industry uses to submit the applications. According to State officials, use of the stand-alone system is a security measure to protect sensitive information from public disclosure. Further, because Defense's FORDTIS/TPS and Energy's PINS are classified, State has no direct connectivity to either system.

Because of the lack of connectivity, the interagency munitions export licensing process is neither seamless nor efficient, and places an unnecessary burden on

industry and Federal agencies involved in export control. The process involves extensive use of manual and paper-based transfer of information that recipient organizations must enter into computer systems. In addition, no single method exists for tracking munitions export license applications throughout the process from initial submission, through referral to other agencies for review, and on to final disposition. We believe that those problems contribute to lack of timeliness in the munitions export licensing process.

Manual and Paper-Based Processes. The munitions export licensing process is manual and paper intensive. The Paperwork Reduction Act of 1995 requires agencies to acquire, manage, and use information technology to improve mission performance and minimize the burden of information collection on the public. However, despite efforts toward automation, Government and industry still use voluminous amounts of paper to process and review export license applications. While approximately 60 percent of munitions export license applications are submitted electronically, supporting documentation is provided in hard copy. The supporting documentation can range from a few sheets of paper to hundreds of pages.

State requires industry to provide an original and eight copies of each munitions license application and the supporting documentation. Applications sent internally for review are transmitted by interoffice mail, fax, or hand delivery because of a lack of systems connectivity. License applications sent to other Federal organizations for review are handled through courier or mail, where as many as five copies of each application and supporting documentation may be sent.

Further, for the munitions export license applications that Defense reviews, applications and supporting documentation are repeatedly copied, reviewed, and shipped to numerous Defense locations. In FY 2000, Defense spent more than \$1.3 million copying munitions export license documentation and more than \$203,000 delivering that documentation to the organizations that perform technical analyses. Also, in FY 2000 Defense produced about 32.4 million pages of paper copies of munitions export license applications and supporting documentation.

Input of Information. The manual processes and lack of Federal agency connectivity requires the same munitions license application information to be input to computer systems multiple times. State personnel must input into DETRA the information from hard copy munitions license applications they receive. Munitions license application reviewers at Defense and Energy also scan or type the data received from State's Office of Defense Trade Controls into their own systems. Defense officials spend approximately 5 to 10 minutes entering dual-use and munitions license data into FORDTIS/TPS for each application they review. The time required for data entry increases to more than 30 minutes for export applications that involve international agreements, which comprise 50 percent of the total munitions export license applications Defense receives.

Tracking Capability. The munitions export licensing process lacks an adequate tracking mechanism. Specifically, no single method exists for tracking munitions license applications throughout the process from initial submission to final disposition. For example, some bureaus within State use manual methods to track the applications that they receive or forward to other offices for review. Exporters can use the Electronic License Entry System to determine whether State received their munitions license applications or referred them to other organizations for review. However, according to Government and industry officials interviewed, the Electronic License Entry System does not always accurately reflect an application's location, nor is the system available to track applications in review at Defense or other bureaus within State.

The Defense system, FORDTIS/TPS, is used to track license applications. However, the system reflects only to which Military Department an application was referred for technical analysis. The system does not reflect the specific command or program office that is conducting the technical evaluation within that Department. Further, Inspector General, DoD, Report No. 99-186, "Review of the DoD Export Licensing Processes for Dual-Use Commodities and Munitions," June 18, 1999, concludes that FORDTIS/TPS does not always contain accurate and complete information on Defense and other U.S. Government recommendations for license applications. In addition, the FORDTIS/TPS does not always contain the final U.S. Government position for export license applications.

Timeliness. The problems discussed above are some of the reasons lack of timeliness in the export licensing processes exists. Specifically, manual and paper-based processes require additional time in processing export license applications, as well as the need to input information multiple times and make and circulate multiple copies. Further, the lack of an interagency tracking system for munitions licenses contributed to the lack of timeliness in reviewing and processing applications. Manual methods to track applications can delay the processing and forwarding of applications. The problem was noted by the General Accounting Office in Report No. GAO-02-203, "Reengineering Business Processes Can Improve Efficiency of State Department License Reviews," December 2001. The General Accounting Office concluded that thousands of munitions license applications were delayed during FY 2000 as a result of the lack of license review procedures and a system to track applications.

Munitions Export Licensing Improvement Initiatives

The Federal agencies responsible for reviewing munitions export license applications generally have been individually and collectively making improvements to their export licensing systems.

State. State has instituted a number of information technology initiatives that will improve the munitions licensing process. For example, State redesigned its

website for submitting munitions export license applications to make it more user friendly and ensure compliance with section 508 of the Rehabilitation Act.¹⁵ The Act requires that all Federal departments and agencies, when developing, procuring, maintaining, or using information technology, ensure that access for individuals with disabilities is comparable to access for individuals without disabilities. Further, State is working to increase connectivity with Defense through installation of a T-1 line.

The T-1 line is able to send and receive large text files, graphics, sounds, and databases instantaneously and is the fastest speed commonly used to connect networks to the Internet. With a T-1 line, Defense can electronically transmit to State final dispositions on applications referred to Defense for review. To document and certify its information technology system, State hired an independent contractor. The independent contractor will also provide recommendations for systems enhancement, including database conversion and electronic licensing data processing (see Appendix F).

Defense. Defense implemented or has plans to implement several internal automated systems that will not only reduce the paperwork burden but also increase the efficiency of portions of the Defense export license dissemination and review process (see Appendix D). A T-1 line was established to improve connectivity between State and Defense, and is currently used to transfer Defense's position to State and also to send data for hundreds of cases in support of U.S. anti-terrorist activities under Operation Enduring Freedom.

Energy. A small number of nuclear-related munitions export license applications are referred to Energy by State for review. Energy's system, PINS, is used to review munitions export license applications. To improve communications regarding reviews of export license applications for munitions, Energy OIG recommended that Energy coordinate more closely with State on its review of license applications and receive information about the final disposition of referred applications (see Appendix E).

The Treasury. No specific automation initiatives exist between the Treasury Customs Service and State regarding connectivity of their respective systems. Discussions to address system requirements needed for compatibility are ongoing between the Treasury Customs Service and State.

Comprehensive Approach Needed For Improved Automation

The agencies involved with munitions licensing should collectively address an approach to improved automation in the munitions export licensing process. By working independently, the agencies have tended to automate certain aspects of the existing process without addressing the fundamental issue of improved connectivity throughout the Government, which has served to perpetuate existing inefficiencies. Further, the agencies have not agreed on information

¹⁵Public Law 106-398, 114 Stat. 1654, 29 United States Code 701 et seq (2001).

security standards needed to obtain approval for moving to a more interoperable systems environment. By not coordinating automation initiatives, the agencies have been unable to identify and address mutual process improvement and system requirements and are duplicating efforts that, if coordinated, could benefit all. A more comprehensive effort, including executive-level oversight and formal agreement on agency roles and responsibilities for carrying out the joint approach, is needed to improve the munitions export licensing process as a whole.

Security Concerns. The information security risks that connectivity poses have contributed to agency reluctance to migrate to a more interoperable systems environment. Although the agencies may be justified in their concern for information security during this era of increased threats, the traditional approach of maintaining unintegrated systems to avoid security risks is inappropriate in today's Federal information technology environment. Specifically, the Office of Management and Budget Circular No. A-130 requires that agencies "protect government information commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information." Managing information technology risks, rather than avoiding them, should be the common goal.

To meet the requirements of the guidelines, munitions export licensing agencies must develop a security approach that can best protect integrated systems and the exchange of licensing data across agencies. Security standards must be agreed upon before systems can be interoperable. For example, Defense has concerns about PKI standards being developed by the various license and review agencies. If the agencies do not establish compatible or equivalent PKI standards, approvals for connectivity will be difficult to obtain. Close coordination can help to forge the agreement needed on information security.

Defining Requirements for Improved Automation. Automating inefficient business processes is not likely to make them more efficient. As such, Federal regulations advise that agencies examine underlying processes and consider streamlining alternatives before transitioning to new or improved electronic business systems. Communicating and coordinating with users or other parties involved in the work processes are essential to effectively identify requirements that the systems are to address.

State has not adequately participated in interagency efforts to address concerns about inefficiencies in the munitions licensing process. In addition, coordination among munitions export licensing participants has been limited, and system requirements have not been fully identified. Relevant industry and Government organizations have not been adequately consulted to address their concerns about inefficiencies in the munitions licensing process. For example, industry officials stated that they submit different information for each munitions license application because State requirements are not clear. Some exporters reference examples of prior munitions license applications to determine the information needed for new submissions and help ensure the submissions are complete. Further, officials from State's regional bureaus stated that only a limited amount of information is required for their bureaus to review a munitions license application. However, State sends all of the license data it receives to the

regional bureau. Receiving unnecessary information has lengthened and complicated the munitions review process because regional bureau officials have to search through voluminous amounts of paper to locate needed information. In addition, Defense officials indicated that they often receive insufficient supporting documentation when State refers munitions export license applications to them for review. As a result, Defense officials have to contact industry for additional information before they can conduct the reviews and formulate decisions on a license application. Energy also does not receive prompt responses from State regarding munitions export license applications and does not receive final dispositions on the munitions cases it reviews.

Coordination of Effort. Munitions export license agencies are not coordinating their ongoing individual efforts with industry and other Federal agencies to improve the export licensing process. The Clinger-Cohen Act requires that agencies identify information technology investments that could result in shared benefits or costs for other agencies or local governments. Further, the Office of Management and Budget Circular No. A-130 requires that Federal agencies cooperate on the use of information technology to improve productivity, efficiency, and effectiveness and ensure that planned developments or improvements to existing information systems do not unnecessarily duplicate other information technology initiatives.

A number of organizations are addressing similar issues, including standardization, tracking, electronic transmission of supporting documentation, and information security in the export licensing process. For example, State is working with contractors to develop electronic licensing. Defense is attempting to add technical specifications to its system and allow users to attach notes to license applications that are electronically sent to other Defense Components for review. In addition, Energy frequently upgrades its PINS to improve the automation of its review of export license applications. By working together, the agencies have the potential to capitalize on each other's ongoing improvement projects.

Conclusion

By working together, munitions export licensing agencies will save time, effort, and resources, as well as achieve results that will be mutually beneficial. For example, the munitions export licensing agencies can collectively address the lack of connectivity, the need for security standards, and specification of requirements for improving automation in the Federal munitions export licensing process without duplicating effort.

To forge improved cooperation and coordination, Defense, Energy, State, and the Treasury need to develop a memorandum of understanding that will help ensure that automated munitions export licensing systems are developed, integrated, and modernized without duplication. Further, the memorandum of understanding should outline the responsibilities of each agency to ensure maximum interagency cooperation and coordination in the licensing of controlled exports.

Management Comments on the Finding and OIG Response

State Comments. The Assistant Secretary of State, Bureau for Political-Military Affairs responded to the draft report for the Secretary of State. We have included a copy of the comments in their entirety in the management comments section.

The Assistant Secretary stated that, like the recent State OIG report (Appendix F), the interagency report tackles a complex subject and gives the bureau much to consider in reforming the Defense trade controls function. The Assistant Secretary agreed that State's munitions export license review process has ample room for improvement and outlined several initiatives underway to address the need for greater efficiency. The Assistant Secretary also stated that the bureau is prepared to pursue an approach to improved automation in the munitions export licensing process involving other agencies.

Nevertheless, the Assistant Secretary provided several observations about details in the report that he hoped would be useful. As appropriate, we made changes in the report to address the observations and ensure accuracy in the information presented. We are also providing more detailed responses to several comments on which we continue to differ.

Interagency OIG Response. Specifically, we do not agree that our characterization of the munitions license review process as "inefficient and unnecessarily burdensome" is inappropriate. As discussed above, extensive use of paper and manual processes exist in the munitions export licensing process. At its expense, industry must provide an original and eight copies of information ranging from a few sheets to hundreds of pages to support each application submitted. To process and review the applications, State and other Federal agencies then use multiple, unintegrated systems, linked by manual and paper-based transfer of information that must be entered by recipient organizations into computer systems--a time consuming and costly activity. In FY 2000, Defense spent more than \$1.3 million to copy, and more than \$203,000 to deliver the license information to technical organizations for review.

We also do not agree that this report's description of the use of paper and other features in the current export licensing process ought not be equated with an inefficient licensing process. We believe that the facts presented in this report, as supported by the State OIG report, justify this characterization. Such paper-based activities are also not consistent with information technology reform legislation. Specifically, the Paperwork Reduction Act of 1995 requires that Federal agencies "promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information." In addition, the Government Paperwork Elimination Act requires agencies to provide for the option of the electronic maintenance, submission, or disclosure of information when practicable as a substitute for paper.

Further, while we recognize State's recent plans to improve the efficiency of the export license review and approval process, we stand by our conclusion that "there is a lack of timeliness in the export licensing processes." As stated above, manual and paper-based processes require additional time and effort to repeatedly input information and make and circulate multiple copies of license applications. The lack of a single, interagency tracking system and the use of manual tracking means can also delay processing and forwarding of applications. As the General Accounting Office reported in December 2001, thousands of munitions license applications were delayed during FY 2000 because of a lack of license review procedures and inadequate tracking systems.

Recommendations, Management Comments, and OIG Response

In response to draft comments received from Defense, we revised the recommendation to identify, as part of a memorandum of understanding, an interagency committee or working group to oversee the systems development effort.

B. We recommend that the Secretary of State develop a memorandum of understanding with the Secretaries of Defense, Energy, and the Treasury that will help ensure that Federal automated munitions export licensing systems are developed, integrated, and modernized without unnecessary duplication. The memorandum of understanding should outline the responsibilities of each agency in the design, development, and operation of a munitions licensing system and how each agency will coordinate its automation efforts. The memorandum of understanding should also identify an organizational structure, such as an interagency group or steering committee, to oversee the systems development effort.

State Comments. The Assistant Secretary of State, Bureau for Political-Military Affairs, responded to the draft report for the Secretary of State. The Assistant Secretary for Political-Military Affairs concurred with the recommendation that State take the lead in developing a memorandum of understanding with several agencies to address information technology systems and coordination requirements. The Assistant Secretary stated that he would assume executive-level oversight for the Bureau for Political-Military Affairs and, as needed, the Department, in exploring development of an agreement regarding roles and coordination of respective agency automation efforts in the munitions export licensing process.

Defense Comments. The Acting Deputy Under Secretary of Defense (Policy Integration) responded for the Secretary of Defense. The Acting Deputy Under Secretary nonconcurred stating that a memorandum of understanding will do little to advance the progress of information sharing. The Acting Deputy Under

Secretary suggested a revised recommendation to form an Interagency Operations Committee to control future iterations of automated export exchange among participating agencies.

Interagency OIG Response. We believe that the recommendation on developing a memorandum of understanding to ensure coordination of agency efforts to modernize their munitions export licensing systems is appropriate. The Defense suggestion for an Interagency Operations Committee has merit, and we have revised our recommendation to identify as part of the memorandum of understanding, an interagency organization. However, the agencies involved in the licensing process should have the flexibility to decide among themselves the roles and preferred approach to promoting information sharing and overseeing interagency coordination. Development of a memorandum of understanding is the first step toward achieving and documenting such agreement.

C. U.S. Export Systems Interagency Program Management Office

To address interoperability concerns across agency lines, Defense created the USXPORTS Interagency Program Management Office. The USXPORTS program office has achieved much in partnership with Commerce by planning and implementing improvements in the export licensing process for dual-use commodities. However, the USXPORTS program office is not meeting its original goal to modernize the entire Federal export licensing process by providing participating agencies with electronic access to pertinent export data. The program lacks full participation by State and other involved entities, key project milestones have slipped, and funding requirements have not been sufficiently documented. As a result, the USXPORTS program office has been unable to fully address inefficiencies, identify requirements, and streamline the Federal munitions export licensing process.

USXPORTS Background

In the 1999 interagency report on the export licensing process, we cautioned that, without improved coordination among the licensing and reviewing agencies, simultaneous development of multiple export licensing automation systems would continue. Therefore, we recommended that the agencies coordinate their systems development efforts. In response to our 1999 report recommendation, in May 2000, Defense established the USXPORTS Interagency Program Management Office. The stated mission of the USXPORTS is to “. . . modernize the export control process through easy and timely access to pertinent export data electronically among participating agencies. This includes enhancing systems and the protection of data across agencies.”

USXPORTS Progress and Limitations

USXPORTS Progress. Since May 2000, the USXPORTS program office has analyzed the Federal export licensing process. Working with the licensing agencies, the USXPORTS program office has begun to make key improvements to automating that process. USXPORTS has been responsible for conducting a comprehensive business process reengineering study of the dual-use licensing process, developing the SNAP/ESD system, establishing dedicated T-1 communication links between Defense and the licensing agencies, and implementing the Secure Air Force Export Data System. In addition, on December 20, 2001, USXPORTS awarded a contract task order supporting USXPORTS “to design, develop, acquire, and deploy a modern automated export license processing and analysis ‘system of systems,’ interoperable among all export license regulatory and reviewing agencies of the U.S. Government.”

The USXPORTS Quarterly Report, July 16, 2001, defines a “system of systems” as a system that will support the reengineered export license review process within Defense and will be interoperable among Defense agencies, the Military Departments, as well as Federal export license regulatory and reviewing agencies including connectivity to industry license applicants. In addition, a common electronic technical library will be established with interfaces to industry and the internal systems of each Federal agency. Each non-Defense agency will fund the modernization of its own internal system.

Business Process Reengineering Study. USXPORTS recently completed a major interagency business process reengineering analysis of the dual-use licensing process.¹⁶ The business process reengineering improvement recommendations are based on requirements identified by six interagency focus groups, comprised of representatives from Commerce, Defense, Energy, and State. The four major reengineering improvement recommendations identified by USXPORTS are to:

- broaden the electronic business exchange between industry and the U.S. Government by (1) registering companies and individuals, (2) creating a single point of entry, and (3) submitting application data and technical specifications electronically;
- provide robust data retrieval and provide tools for cumulative effect analysis;
- enhance the license review and analysis process by establishing an interagency review team early in the process and improving interagency communication technology; and
- migrate to an unclassified data environment by creating an unclassified export licensing environment.

In October 2001, the USXPORTS program office briefed its Steering Committee, comprised of senior Commerce and Defense officials, on the proposed business process reengineering recommendations. According to USXPORTS, the committee has approved the reengineering recommendations, with slight modifications, and the next step is to determine how to implement those recommendations.

SNAP/ESD. USXPORTS and Commerce are jointly working on the development of the SNAP/ESD system, which will enable exporters to submit dual-use license applications and supporting documentation on line. In addition, review agencies will have real-time access rights to the document library,¹⁷ a repository of electronic copies of documents relating to a dual-use export license application.

¹⁶USXPORTS Business Process Reengineering (Draft), August 28, 2001.

¹⁷Specific access by the review agencies will be limited to only the documentation relating to those applications that have been referred to them by the Bureau of Export Administration.

The USXPORTS program office is funding the SNAP/ESD development effort, although the project manager for Commerce's ECASS 2000+ is responsible for overseeing the project. Once completed, USXPORTS will turn the system over to Commerce to house and maintain SNAP/ESD equipment and databases. USXPORTS estimates that it will spend about \$1 million to complete the SNAP/ESD system. SNAP/ESD is scheduled for full implementation in March 2002.

Dedicated T-1 Lines. USXPORTS is working with Commerce and State to improve the respective automated interfaces with Defense by establishing a dedicated T-1 communication link. As of January 2002, security testing of the Commerce/Defense T-1 line was underway. When the line becomes fully operational it will be used to support the dual-use SNAP/ESD. The Commerce/Defense T-1 line can exchange application data, including Defense-recommended positions, technical library information, and Commerce positions.

The State/Defense T-1 line has been installed and used to transfer information on emergency export licenses for material that supports the war on terrorism. However, Defense and State have not reached agreement on technical procedures or test protocols, and the information transferred has in most cases been of limited use. Executive dialogue continues between Defense and State on use of the T-1 line, but no apparent progress has been made to adequately exchange export license application data in an electronic format.

Secure Air Force Export Data System. To replace a predominantly manual munitions license review process and to begin reducing the volumes of paper generated by the current referral process, USXPORTS implemented an unclassified, web-based information system for the Air Force that enables the rapid electronic dissemination of munitions export license applications. According to USXPORTS officials, the interface automates the transfer of data from the Defense Technology Security Administration to the appropriate Air Force referral component commands. USXPORTS expects to use the Secure Air Force Export Data System, which was delivered in January 2002, as the prototype for Military Department interfaces. The majority of export license applications reviewed by the Air Force and the other Military Departments are for munitions.

USXPORTS "System of Systems" Task Order. On December 20, 2001, USXPORTS awarded a contract task order with an estimated value of \$22.4 million. As of February 2002, the contract task order has been funded with about \$1 million. USXPORTS plans to incrementally fund the remainder of the contract task order based on the availability of FY 2002 funds. The contract task order period of performance lasts through December 2004. The scope of the contract task order is to provide program management, development, and systems integration services to USXPORTS in support of its export licensing modernization effort. The primary areas of support include:

- Program Management Support;
- Requirements Analysis;

-
- Process Reengineering;
 - Security Engineering;
 - Software Engineering;
 - Integration Testing; and
 - Incremental Deployment.

Limitations of USXPORTS Initiatives. The effectiveness of USXPORTS efforts has been limited by a lack of participation by all the agencies in the export licensing process. In addition, key project milestones have not been met and funding requirements have not been sufficiently defined.

Agency Participation. Defense envisioned that Commerce and State would be full participants in the USXPORTS effort to modernize the export control process; however, only Commerce has agreed to do so. Although State recently began communicating with USXPORTS on ways to coordinate munitions export licensing improvement initiatives, State has declined to participate directly with the USXPORTS program, and no coordinated interagency effort to improve the munitions export licensing process exists. USXPORTS, as a Defense organization, does not have the authority to require licensing agencies to participate in the effort to modernize the export control process.

While Commerce and Defense are working together to modernize the dual-use export licensing process, neither Commerce nor Defense has clear plans as to how they will continue to work together in their respective dual-use export licensing modernization efforts. Energy has participated in several meetings at the invitation of USXPORTS and has provided two demonstrations of PINS. In addition, USXPORTS met with Energy in October 2001 to review Energy's comments on the Business Process Reengineering report. Further, USXPORTS was provided with access to PINS architecture to evaluate PINS capabilities against USXPORTS requirements documents. However, since April 2001 limited interaction has taken place between Energy and USXPORTS. Finally, although USXPORTS and the Treasury initially discussed how best they could work together, no subsequent interaction has occurred.

Key Project Milestones. Although USXPORTS is breaking new ground in coordinating the development of Federal interagency systems, the USXPORTS program office has not met key project milestones in accordance with its original program schedule. Key project milestones represent critical junctures in the development of a system. When those dates are not met, the entire development schedule is delayed. If key milestones are not completed, the program will not be successful. The following table illustrates project milestones. During our review, the Program Manager informed the interagency OIG review team of slippage in milestone schedules, in part because of the slowness of the funding process and in part because of the careful deliberation of major policy issues by program oversight officials. In the Program Manager's view, the project delays to date have not reached a point where the

program is in jeopardy. However, we disagree and believe that as a result of the adjustments, a high risk of the USXPORTS' program not meeting its project completion dates and overall goals exists.

Delayed USXPORTS Project Milestones			
Document	Original Due Date	Adjusted Due Dates	Date Completed
System Requirements Specifications	June 2001	December 2001	Pending
Target Architecture	August 2001	March 2002	Pending
Functional Requirements Document	August 2001	December 2001	December 2001
Analysis of Alternatives	N/A	March 2002	Pending

Sources: Appendix B, Task Order Management Plan, March 20, 2001 and USXPORTS meeting with interagency working group on December 27, 2001

Funding Requirements. USXPORTS has not sufficiently identified funding requirements for modernization of the export licensing process. Defense officials calculated, without comprehensive analysis, the estimated costs for development and procurement of export licensing system(s) at \$30 million when the officials were told that funds for an automated export licensing system would become available. USXPORTS has not subsequently adjusted the estimated funding requirements, although current plans for an interagency export licensing system of systems do not match the plan for a single interagency export licensing system originally envisioned when the funding request was first calculated. In addition, USXPORTS does not have approved funding to continue the program if mission goals are not met by September 30, 2005.

USXPORTS Export Licensing Process Modernization Effort

The USXPORTS program office approach, without the cooperation of all of the export licensing agencies, does not fully address overall export licensing processes and system inefficiencies, identify interagency system requirements, or streamline the Federal export licensing process. In its attempt to modernize the entire Federal export control process, USXPORTS has given priority to interagency modernization efforts, but not to modernizing the export licensing process within Defense—a process that could be greatly improved through automation and modernization efforts. Interagency modernization objectives are better achieved by Commerce and State, which have been given the responsibility to administer and approve dual-use and munitions export licenses. Defense's efforts to work with the licensing agencies to improve the Federal

export licensing system interfaces are worth continuing. However, Defense needs to focus its modernization efforts on the problems of disseminating export license applications and associated technical documentation to organizations within Defense.

Management Comments on the Finding and OIG Response

Defense Comments. The Office of the Under Secretary of Defense (Policy) responded to the draft report for the Secretary of Defense. The Acting Deputy Under Secretary of Defense (Policy Integration) stated that the Office of the Under Secretary believed that the report should be more positive towards the USXPORTS program. The Acting Deputy Under Secretary stated that although the USXPORTS Integrated Program Management Office lacks the legal or regulatory authority to mandate full participation from program partners, it has established joint goals with Commerce and, more recently, with State to accomplish much in the areas of potential business process improvements, interface with industry, information assurance alternatives, and common data repositories. He stated that USXPORTS has broken new ground in the areas of classification domains and PKI. The Deputy Under Secretary stated that not all of USXPORTS' accomplishments are called out in the report and that the overall tone of the draft report leaves the reader with the impression that the program will not accomplish all of its goals, which is not the opinion of the program oversight authorities including the Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) and the Interagency Steering Committee.

Interagency OIG Response. As a result of management comments, we revised the USXPORTS Interagency Program Management Office finding where appropriate in the final report to include additional USXPORTS program accomplishments.

Recommendations, Management Comments, and OIG Response

C. We recommend that the Secretary of Defense:

1. Continue to work with Commerce, Energy, and State to improve and better integrate Defense's role in the review and processing of dual-use and munitions export licenses; and

2. Redirect the primary focus of the U.S. Export Systems Interagency Program Management Office to automating, integrating, and modernizing Defense's processes for disseminating and reviewing export license applications and associated technical documentation referred to Defense by Commerce and State.

Defense Comments. The Acting Deputy Under Secretary of Defense (Policy Integration) did not respond to Recommendation C.1. and nonconcurred with Recommendation C.2., stating that the recommendation is contrary to the precepts of both the Clinger-Cohen Act and applicable Defense regulations. The Deputy Under Secretary believed that implementation of the recommendation will result in the USXPORTS program losing the opportunity to leverage its accomplishments into future interagency cooperation.

Interagency OIG Response. The intention of Recommendations C.1. and C.2. is not to end the cooperation between Commerce, Defense, and State, but rather to ensure Defense resources are focused on resolving export license application review process inefficiencies, such as disseminating license applications and associated technical documentation to widely dispersed geographic locations, that will provide benefits for Defense organizations. To develop an efficient export license application review system within the precepts of the Clinger-Cohen Act, Defense must cooperate with Commerce, State and industry on methods to receive and transmit data. However, Defense's primary focus should be on the dissemination of data among Defense organizations. We request the Acting Deputy Under Secretary provide comments to Recommendation C.1. and provide specific plans for automating, integrating, and modernizing Defense's processes for disseminating and reviewing export license applications and associated technical documentation, and the dates that the plans will be implemented.

Appendix A. Scope and Methodology

Interagency Scope

The interagency review focused on the development and implementation of Commerce, Defense, Energy, State, and the Treasury agency-specific automated systems that support the export license application processes for dual-use and munitions items and the interoperability of those systems. We also reviewed the efforts of USXPORTS to develop and implement an automated interagency export licensing system. In addition, the review focused on departmental guidance, executive orders, other applicable laws, and regulations regarding automation initiatives. The OIG review teams contacted responsible personnel in their respective agencies and in other Federal agencies and governmental organizations, as appropriate. The participating OIG review teams were from Commerce, Defense, Energy, State, and the Treasury.

The interagency review did not analyze the feasibility of a single integrated licensing system for both dual-use and munitions export license applications. We only reviewed the challenges facing current modernization efforts.

Interagency Methodology

Review Approach. To coordinate the review of interagency automation issues and determine the work to be performed by each OIG team, the five OIGs formed an interagency working group and held monthly meetings while conducting agency-specific reviews. The interagency review was conducted from April 2001 through February 2002. We performed work in the following areas:

- reviewed and evaluated connectivity among agency-specific automated export licensing systems with representatives from the OIGs of Commerce, Defense, Energy, State, and the Treasury;
- reviewed and evaluated USXPORTS efforts to modernize the export control process;
- interviewed personnel and contractors at Commerce's Bureau of Export Administration; USXPORTS Interagency Program Management Office; Office of Management and Budget, Office of Information and Regulatory Affairs; Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, Deputy Chief Information Officer, and the Designated Approving Authority; Deputy Under Secretary of Defense (Policy Integration) as well as Director, Policy Automation; Defense Technology Security Administration; State's Bureau of Political and

Military Affairs, Office of Defense Trade Controls; Energy's Office of Export Control Policy and Cooperation; the Treasury's Customs Service; and Chief Information Officer Liaison, Chief Information Officer Council;

- reviewed and evaluated individual agency guidance on processing and reviewing export license applications, General Accounting Office reports on information security and the processing of export license applications from February 2001 through December 2001, Office of Management and Budget guidance and memorandums on the management of Federal information resources, USXPORTS documentation including their acquisition strategy, business plan, and preliminary economic analysis, and congressional guidance on implementing and managing system development efforts; and
- attended demonstrations to evaluate processes and information systems used for reviewing dual-use and munitions export license applications, and assessed whether ongoing and planned upgrades to the licensing systems are being carried out in a cost-effective manner.

Agency-Specific Methodology

Appendixes C through G contain agency-specific inputs on the methodology used for each respective agency's review. Analysis and information gathered during agency-specific OIG reviews were also used to produce the interagency review.

Commerce OIG Methodology. The Commerce OIG goal was to assess Commerce efforts to modernize its export licensing system for dual-use commodities. In particular, the Commerce OIG sought to determine whether the Bureau of Export Administration adequately planned for the redesign effort including appropriate interagency consultations; had an infrastructure in place to monitor project costs, schedule, and deliverables; developed a system design schedule that was realistic, achievable, and being met; and, implemented previous OIG recommendations pertaining to the replacement of the export licensing system and other automation issues.

The review methodology included interviews with personnel and contractors at the Bureau of Export Administration; Office of Management and Budget; General Accounting Office; Commerce's Chief Information Officer; Office of Budget and Office of Secretary; officials from the Departments of Defense, Energy, Justice, State and the Treasury; the USXPORTS Interagency Program Management Office; and the Information Technology Enterprise Architecture Affinity Group. The Commerce OIG reviewed ECASS 2000+ and USXPORTS documents available prior to September 30, 2001. In addition, the Commerce OIG reviewed departmental, General Accounting Office, Office of Management and Budget, and congressional guidance for implementing and managing system development efforts.

Defense OIG Methodology. The Defense OIG goal was to assess the policies and procedures for development and implementation of automation initiatives for USXPORTS. The Defense OIG researched the Defense process for disseminating export licenses to technical reviewers. In addition, the Defense OIG reviewed the systems used in the business process for export licenses, the procedures used by the Military Department commands to further disseminate the license applications to technical experts when necessary, and the Defense and Military Department use of FORDTIS/TPS.

The review methodology included interviews with personnel at the Deputy Under Secretary of Defense (Policy Integration); the Joint Chiefs of Staff; the Defense Intelligence Agency, Deputy Chief Information Officer, the Defense Technology Security Administration; USXPORTS Interagency Program Management Office; the U.S. Army Security Assistance Command; the Navy International Programs Office; the International Affairs Division, Secretary of the Air Force; the Army Aviation and Missile Command; the Naval Air Systems Command; and the Anteon Corporation.

Energy OIG Methodology. The Energy OIG goal was to assess the policies and the procedures for development and implementation of automation initiatives for USXPORTS. The Energy OIG reviewed the adequacy of the current system that Energy used for export license processing and determined the age and viability of Energy's system. In addition, Energy OIG determined requirements that included the required information assurance standards for Energy and interagency exchange of export data, and determined whether Energy had programmed funds to operate and maintain a Federal licensing system for FY 2004 and the out years.

The review methodology included interviews with officials from the Headquarters Office of Export Control Policy and Cooperation; Energy contractor officials from Los Alamos National Laboratory, New Mexico; Lawrence Livermore National Laboratory, California; and the University of New Mexico regarding export control database concerns. The Energy OIG collected pertinent data from Federal and contractor personnel affiliated with the Departments of Commerce, Defense, State, the Treasury, and the CIA.

State OIG Methodology. The State OIG goal was to assess the policies and procedures for development and implementation of the automation initiatives for USXPORTS. The State OIG researched laws and Federal guidance to identify applicable criteria for managing and ensuring security of information technology. In addition, State OIG evaluated the processes and information systems used for reviewing munitions export license applications, determined whether licensing systems comply with Federal and departmental security assurance requirements, and assessed whether ongoing and planned upgrades to the licensing systems were being carried out in a cost-effective manner.

The review methodology included interviews with personnel from State's Office of Defense Trade Controls, Bureau of Nonproliferation, Bureau of Political and Military Affairs, Bureau of Verification and Compliance, and Chief Information Officer. In addition, State OIG interviewed personnel from the Defense Threat Security Administration; the Customs Service (the Treasury); USXPORTS

Interagency Program Management Office; and the General Accounting Office. The State OIG attended presentations at Commerce, Defense, Energy, and the Customs Service to learn about issues and initiatives underway to improve information technology and streamline portions of the export licensing process.

The Treasury OIG Methodology. The Treasury OIG goal was to assess the policies and procedures for development and implementation of the automation initiatives for USXPORTS. The Treasury OIG also assessed the Treasury's role in the approval and issuance of export licenses and the systems, both automated and manual, used to facilitate this role, and the costs involved with operating the systems, and whether plans exist to upgrade the systems.

The review methodology included interviews with personnel from the Customs Service; the Office of Foreign Assets Control; the Bureau of Alcohol, Tobacco and Firearms; and the USXPORTS Interagency Program Management Office. The Treasury OIG attended presentations at Commerce, Defense, Energy, and State to learn about issues and initiatives underway to improve information technology and streamline portions of the export licensing process.

Appendix B. Followup to Prior Interagency Review

As amended, Public Law 106-65, National Defense Authorization Act for FY 2000, requires the OIGs to include in their annual report the status or disposition of recommendations made in earlier reports submitted in accordance with the Act. In the first year of the Act, the OIGs each conducted an audit or review of compliance with the deemed export licensing requirements contained in the Export Administration Regulations and the International Traffic in Arms Regulations. The results of the reviews were consolidated and reported in Inspector General, DoD, Report No. D-2000-109, "The Interagency Review of the Export Licensing Process for Foreign National Visitors," March 2000. The March 2000 Interagency Review contains the complete text of each agency report, including recommendations in appendixes. In the second year of the Act, the OIGs each conducted an audit or review of the policies and procedures for the development, maintenance, and revision of the Commerce Control List and the U.S. Munitions List. The results of the reviews were consolidated and reported in Inspector General, DoD, Report No. D-2001-092, "The Interagency Review of the Commerce Control List and the U.S. Munitions List," March 2001. The March 2001 Interagency Review contains the complete text of each agency report, including recommendations in appendixes. The following is the status of the recommendations made by each agency.

Department of Commerce

Status of the Commerce OIG Report No. IPE-13744, "Management of the Commerce Control List and Related Processes Should Be Improved," March 2001

Recommendations for the Director, Bureau of Export Administration

Recommendation: Review the Bureau of Export Administration's internal clearance process and procedures for implementing agreed-upon multilateral changes to the Commerce Control List and work with the other licensing agencies, including Defense, Energy, and State, to determine whether the current process for updating the Commerce Control List can be adjusted in order to publish regulations more expeditiously. In addition, immediately implement the regulatory changes resulting from the May 1999 Nuclear Suppliers Group plenary session and the October 1999 Missile Technology Control Regime plenary session.

Status: **Open.** The Bureau of Export Administration began an evaluation of the current regulatory review process in September 2001 to determine whether it could be adjusted and expected to complete this review by November 2001. The Bureau of Export Administration also indicated that regular meetings are held by the Deputy Assistant Secretary for Export

Administration with the Director of the Regulatory Policy Division, as well as staff from other Bureau of Export Administration program offices, as needed, to discuss the status of all pending regulations, prioritize them, and make regulatory changes in a more timely manner. However, the Bureau of Export Administration's July 2001 action plan pointed out that the primary reason for delays in drafting and implementing regulations is the shortage of regulatory personnel in the Bureau of Export Administration and other agencies. Consequently, the Bureau of Export Administration requested funding in both its fiscal year 2002 and 2003 budget submissions for additional regulatory staff. While we recognize the Bureau of Export Administration's need to hire additional engineering and regulatory staff to offset its shortage of technical and analytical capacity, we believe that the Bureau of Export Administration can take action on this recommendation with its current staff level.

With regard to the May 1999 Nuclear Suppliers Group regulatory changes, the Bureau of Export Administration informed us that a draft regulation would be sent out for interagency review during the week of September 24, 2001, requesting reviewing agencies to provide comments and clearance within two weeks. In addition, the Bureau of Export Administration reported that the draft regulation implementing the October 1999 Missile Technology Control Regime plenary regulation changes was sent out for interagency review on August 9, 2001. According to the Bureau of Export Administration, Energy and State have cleared the regulation, while the Department of Defense is still reviewing it. Although the Bureau of Export Administration's actions partially meet the intent of our recommendation, this recommendation will remain open until the Bureau of Export Administration completes its evaluation of the current regulatory review process and publishes the 1999 Nuclear Suppliers Group and the Missile Technology Control Regime regulatory changes in the Federal Register.

Recommendation: In conjunction with Defense and State, review the national security controlled items that have been decontrolled by the Wassenaar Arrangement to determine (a) whether the national security controls for these items should be removed and (b) whether these items should continue to be controlled for foreign policy reasons under the Commerce Control List.

Status: Open. As of September 30, 2001, the Bureau of Export Administration has taken no action on this recommendation since the publication of our March 2001 report. However, the Bureau of Export Administration did inform us that it will begin discussions with Defense and State in October 2001 to determine the appropriate controls for the four Export Control Classification Numbers currently subject to unilateral national security controls. The Bureau of Export Administration believes that, at a minimum, the existing foreign policy (antiterrorism) controls should be continued on these items. The Bureau of Export Administration's actions do not meet the intent of our recommendation. Until a review of these items has been completed, this recommendation will remain open.

Recommendation: Convene a working group of business and government representatives, under the auspices of the Regulations and Procedures

Technical Advisory Committee, to improve the user-friendliness of the Commerce Control List. In addition, work with State to (1) eliminate the current overlap of items and make sure that it is very clear on which list an item falls, and (2) create a user-friendly consolidated index of the items on the Commerce Control List and the U.S. Munitions List. To ensure that this happens, work with the applicable congressional committees, that are considering new legislation for dual-use exports, to ensure that any new Export Administration Act or similar legislation includes a requirement that the agencies eliminate the overlap and create such an index for both the Commerce Control List and the U.S. Munitions List. Finally, ensure that the annual scrubs of the Commerce Control List also take into account any corrections or changes that would help to make the Commerce Control List easier for exporters to use.

Status: Open. The Regulations and Procedures Technical Advisory Committee has formed a working group to suggest improvements to the Commerce Control List. According to the committee's chair, it is likely that the working group will present its suggested changes to the Bureau of Export Administration at the Advisory Committee's next meeting, scheduled for early December 2001. With regard to our recommendation that the Bureau of Export Administration work with State to eliminate the overlap of items on both the Commerce Control List and the U.S. Munitions List and create a consolidated index of items on both lists, the Bureau of Export Administration and State are in the process of reviewing Defense's first set of changes to the U.S. Munitions List resulting from the five-part "scrub" of the list as part of the Defense Trade Security Initiative Number 17. While one of our goals of this initiative is the identification of U.S. Munitions List items that are more appropriately controlled by the Commerce Control List, the initiative does not specifically address the overlap problem we identified. Therefore, we are not confident that relying on Defense's effort will resolve the overlap issue. In addition, the Bureau of Export Administration contends that it would be premature to create a consolidated index until there is interagency agreement on the first set of changes to the U.S. Munitions List. We see no reason to delay the start of work on the index. Any changes made as a result of the 5-year Defense Trade Security Initiative Number 17 effort can be inserted into the index after interagency agreement on the changes is reached. Thus we urge the Bureau of Export Administration to begin work with State immediately on the index and to eliminate the overlap. Overall, the Bureau of Export Administration's actions taken to date do not meet the intent of our recommendation.

Recommendation: Review Export Administration priorities and staffing levels and make adjustments to improve the Bureau of Export Administration's timeliness on commodity classification requests.

Status: Open. The Bureau of Export Administration believes that additional technical personnel are needed to improve the timeliness on commodity classification requests. As a result, the Bureau of Export Administration has made funding for additional technical experts one of its highest priorities for fiscal years 2002 and 2003. We verified that the Bureau of Export Administration requested additional funding for hiring technical personnel in both its 2002 and 2003 budget requests. While the Bureau of

Export Administration's action partially meets the intent of our recommendation, this recommendation will remain open until the Bureau of Export Administration implements the necessary actions to improve its timeliness on commodity classifications.

Recommendation: Program the Export Control Automated Support System to allow for the "hold without action" feature to help Export Administration managers keep better track of licensing officers performance on commodity classifications.

Status: Open. The Bureau of Export Administration informed us that it intends to implement this recommendation as part of its Export Control Automated Support System redesign project. However, until the Bureau of Export Administration makes a final decision on the commodity classification system requirements as a part of its redesign efforts, this recommendation will remain open.

Recommendation: Develop policies and procedures for the intra-agency review of commodity classification requests.

Status: Closed. In its July 2001 action plan, the Bureau of Export Administration stated that it does not believe that developing additional policies and procedures for intra-Bureau of Export Administration referral of commodity classifications is necessary. However, on June 4, 2001, the Bureau of Export Administration's Director of Exporter Services sent an e-mail message to all Export Administration Office Directors instructing them to remind their licensing officers that if they need to seek advice about a commodity classification from another office or have been requested to provide input on a commodity classification to another division, they should do so promptly and complete the action within three working days. The Bureau of Export Administration's actions meet the intent of our recommendation.

Recommendation: Request that the National Security Council form a working group (including Defense and State) to (a) review the 1996 commodity classification guidance, (b) revise it if necessary, and (c) develop specific criteria and procedures to ensure that the referral of munitions-related commodity classifications to Defense and State is handled in a timely, transparent, and appropriate manner by all agencies involved.

Status: Open. The Bureau of Export Administration recently notified us that it plans to work with the National Security Council and the other agencies to review the 1996 commodity classification guidance once the night vision jurisdiction issue is resolved. In addition, the Bureau of Export Administration informed us that the current Administration has reached internal agreement on the principles that would govern Defense's review of commodity classification requests. We also point out that the proposed Export Administration Act of 2001 (S. 149) would require Commerce, by law for the first time, to notify Defense of all commodity classification requests it receives. We are pleased that high-level discussions are taking place about the review of commodity classifications. As such, the Bureau of Export Administration's

actions partially meet the intent of our recommendation. This recommendation will remain open until the National Security Council/Commerce/Defense/State review of the 1996 commodity classification guidance is complete.

Recommendation: Provide State with a copy of the final determinations for any commodity classification it reviews.

Status: Open. The Bureau of Export Administration informed us that the procedures for sending completed commodity classifications to the State Department will be completed by October 15, 2001. This recommendation will remain open until the Bureau of Export Administration begins to provide State with a copy of the final commodity classification determinations it reviews.

Recommendation: Review Export Administration priorities and staffing levels, as appropriate, and make adjustments to improve the Bureau of Export Administration's timeliness on commodity jurisdiction determination requests.

Status: Open. The Bureau of Export Administration believes that additional technical personnel are needed to improve the timeliness on commodity jurisdiction requests. As a result, the Bureau of Export Administration has made funding for additional technical experts one of its highest priorities for fiscal years 2002 and 2003. We verified that the Bureau of Export Administration had requested additional funding for hiring technical personnel in both its 2002 and 2003 budget requests. While the Bureau of Export Administration's actions partially meet the intent of our recommendation, this recommendation will remain open until the Bureau of Export Administration implements the necessary actions to improve its timeliness on commodity jurisdiction requests.

Recommendation: Work with State's Office of Defense Trade Controls and Defense, or include as part of the current system redesign efforts, an automated system for referring and processing commodity jurisdiction cases, similar to the current automated licensing system.

Status: Open. The Bureau of Export Administration agreed to work with State and Defense to have this issue addressed as part of Defense's U.S. Exports Interagency Program Management Office initiative.¹⁸ To that end, the Bureau of Export Administration raised the issue with State and Defense at the September 19, 2001, quarterly interagency export licensing meeting. In addition, the Bureau of Export Administration stated that it would raise this issue with the appropriate officials at State and Defense now that the new management teams are in place at those departments. Finally, the Bureau of Export Administration pointed out that, ultimately, State has to agree to electronic processing of commodity jurisdiction requests, and it has not yet done

¹⁸In May 2000, Defense announced the start of a new interagency automation effort to improve the U.S. Government's export license review process. The U.S. Exports Interagency Program Management Office was established to oversee this initiative. At this time, State has not officially agreed to participate in this initiative.

so. We request that the Bureau of Export Administration continue to press State and Defense on this issue. Until a definitive decision to automate the commodity jurisdiction process, this recommendation will remain open.

Recommendation: Request that State's Office of Defense Trade Controls consult with the Bureau of Export Administration and Defense and all commodity jurisdiction requests and cease its practice of making some commodity jurisdiction determinations without first consulting with those agencies, as required by the 1996 National Security Council guidance.

Status: Open. The Bureau of Export Administration stated that it would make this request to State by October 1, 2001, now that State's new management team is in place. Until that request is made, this recommendation will remain open.

Recommendation: Request that the National Security Council provide guidance on how State's Office of Defense Trade Controls, Defense, and the Bureau of Export Administration should process governmental jurisdictions, similar to the guidance it issued for the commodity jurisdiction process.

Status: Open. The Bureau of Export Administration has taken no action on this recommendation since the publication of our March 2001 report. The Bureau of Export Administration informed us that it will discuss this recommendation with the National Security Council, Defense, and State after the night vision jurisdiction review is resolved and the 1996 commodity classification guidance is reviewed. Until the Bureau of Export Administration raises this issue with the National Security Council, at a minimum, or until some guidance on processing government jurisdictions is provided to the licensing agencies, this recommendation will remain open.

Recommendation: Submit a formal written request to the new head of the National Security Council asking for early resolution of the jurisdictional issues regarding night vision equipment and technology.

Status: Open. The Bureau of Export Administration has not formally requested the National Security Council to resolve the jurisdictional issues regarding night vision equipment and technology since issuance of our March 2001 report. However, the Bureau of Export Administration recently informed us that the National Security Council would begin a review of this matter in October 2001. Until the review is completed, this recommendation will remain open.

Recommendation: Submit a formal written request to the new head of the National Security Council asking for early resolution of the jurisdictional issues regarding the 16 space-qualified items.

Status: Closed. The National Security Council and the Departments of Commerce, Defense, and State recently completed a review of licensing jurisdiction for space-qualified items. The Departments have posted charts on their respective web sites detailing the resolution of this issue. According to the

Bureau of Export Administration, each agency will publish rules shortly in the Federal Register amending their regulations, where appropriate, and specifying the relevant details and technical parameters associated with export control of these items. Of the 16 space-qualified items in dispute, 6 have been determined to fall strictly under the U.S. Munitions List; 4 have been determined to fall strictly under the Commerce Control List; and 4 have been determined to fall under both the Commerce Control List and the U.S. Munitions List depending on certain technical parameters. The remaining two categories were decontrolled by the Wassenaar Arrangement in December 1998. The deletions were made to the Commerce Control List in mid-1999, but new categories were created to unilaterally control these items on the Commerce Control List for anti-terrorism reasons. The Bureau of Export Administration's actions meet the intent of our recommendation.

**Status of the Commerce OIG Report No. IPE-12454-1,
"Improvements Are Needed in Programs Designed to Protect
Against the Transfer of Sensitive Technologies to Countries of
Concern," March 2000**

Recommendations for the Director, Bureau of Export Administration

Recommendation: Aggressively pursue an outreach program to high technology companies and industry associations explaining and seeking compliance with the deemed export control requirements.

Status: Closed. Within the Bureau of Export Administration, the Office of Exporter Services has the lead responsibility for educating the business community and U.S. government agencies about the "deemed export" provisions of the Export Administration Regulations. The Bureau of Export Administration informed the Commerce OIG that the Office of Exporter Services included the subject of deemed exports in its 2-day export control seminars, which were held monthly in cities across the United States. Plenary sessions were also conducted on deemed exports at the Bureau of Export Administration annual Update Conference in July 2000, which the Bureau of Export Administration estimated included 800 industry representatives. In addition, the Bureau of Export Administration has kept industry informed of deemed exports through its various Technical Advisory Committee meetings. Furthermore, the Commerce OIG noted that the Bureau of Export Administration senior managers also periodically include information on deemed exports in speeches given at industry events.

In addition to the outreach activities, the Office of Export Enforcement, through its Project Outreach program, meets with employees of businesses, officials of other Federal agencies, and university officials to make them aware of their export control compliance responsibilities under the Export Administration Regulations. According to Office of Export Enforcement officials, the guidance includes making the individuals aware of the deemed export provisions of the Export Administration Regulations.

During FY 2000, the Office of Export Enforcement reported that it conducted 1,033 Project Outreach visits and 60 public relations appearances (such as trade

association meetings or Office of Export Enforcement Business Executive's Enforcement Training meetings). The Office of Export Enforcement officials informed the Commerce OIG that because many of the dual-use technologies and commodities controlled under the Export Administration Regulations are high technology, a significant proportion of the Office of Export Enforcement contacts with the business community are with high-technology firms. In addition, Office of Export Enforcement special agents have visited numerous research institutes and universities that employ or sponsor foreign nationals. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Develop a link on the Bureau of Export Administration main Internet web site specifically dedicated to deemed exports as was done for the Chemical Weapons program.

Status: Closed. On March 15, 2000, a deemed export web site link was established on the main the Bureau of Export Administration web site. This web site included a comprehensive list of questions and answers that covered what the deemed export rule is, who is considered a foreign national, what the licensing requirements for foreign nationals are, and what technologies are subject to control. The Bureau of Export Administration actions meet the intent of our OIG recommendation.

Recommendation: Expand outreach efforts with Federal agencies (including Commerce, Defense, Energy, and Transportation, and the National Aeronautics and Space Administration) to ensure that these agencies fully understand the deemed export requirements and to help them determine whether foreign visitors at their facilities and/or laboratories require a deemed export license. At a minimum, the Bureau of Export Administration should:

(a) Respond to the Energy's November 1999 request to review and concur with the informal deemed export guidance that the Bureau of Export Administration provided to Energy officials at a June 1999 meeting.

Status: Closed. Although the Bureau of Export Administration has still not formally responded to the Energy's November 1999 request to review and concur with the informal deemed export guidance that the Bureau of Export Administration provided to Energy officials at a June 1999 meeting, the Commerce OIG has acknowledged that the Bureau of Export Administration is now engaged in a continuing dialogue with Energy on various export control issues, including deemed export controls. The Bureau of Export Administration actions meet the intent of our recommendation.

(b) Follow up with the Director of the National Institute of Standards and Technology on the three cases we identified to determine whether deemed export licenses should have been obtained and assist the National Institute of Standards and Technology in developing an export compliance program.

Status: Closed. According to the Bureau of Export Administration, licensing officials held consultations with the National Institute of Standards and Technology and determined that the three cases in question were instances of “fundamental research” and, as such, no deemed export license was required. The Bureau of Export Administration actions meet the intent of our recommendation.

(c) Engage in discussions with the National Oceanic and Atmospheric Administration Administrator, as well as the Assistant Administrators of its line offices, and in particular the National Environmental Satellite, Data, and Information Service, to discuss deemed export regulations and their potential applicability to the National Oceanic and Atmospheric Administration.

Status: Open. During fiscal year 2000, officials of the Bureau of Export Administration’s Office of Export Enforcement visited the National Oceanic and Atmospheric Administration’s facility in Boulder, Colorado, and met with attorneys in its Office of Chief Counsel. According to Office of Export Enforcement officials, the presentation in Boulder was focused primarily on deemed exports. Furthermore, on May 31, 2001, the Under Secretary for Export Administration sent a memorandum to the National Oceanic and Atmospheric Administration’s Acting Administrator offering to brief National Oceanic and Atmospheric Administration personnel on deemed exports. While the Bureau of Export Administration has not received a response from the National Oceanic and Atmospheric Administration to date, the Bureau of Export Administration’s action plan stated that it would follow-up with the National Oceanic and Atmospheric Administration by October 1, 2001. While the Bureau of Export Administration’s actions partially meet the intent of our recommendation, this recommendation will remain open until the Bureau of Export Administration meets with the National Oceanic and Atmospheric Administration.

(d) Meet with Department of Transportation officials to ensure their understanding and compliance with deemed export license requirements.

Status: Closed. According to the Bureau of Export Administration, representatives from Export Administration and Office of Chief Counsel met with legal staff from the Department of Transportation’s Federal Aviation Administration in June 2000. The Bureau of Export Administration informed us that they provided an extensive briefing on the regulatory and procedural requirements of the deemed export program. In addition to the Federal Aviation Administration, the Bureau of Export Administration reported that it contacted officials at the Department of Transportation and provided them with copies of the regulation and web site material. The Bureau of Export Administration actions meet the intent of our recommendation.

Despite a lack of action on some of the Commerce OIG recommendations, the Bureau of Export Administration appears to have made more concerted effort since issuance of our March 2000 report to ensure that other Federal agencies have a clear and uniform understanding of the licensing requirements for transfer of controlled technology to foreign nationals. For example, the Bureau

of Export Administration reported that the Office of Export Enforcement conducted 350 liaison meetings with other Federal agencies during FY 2000. The Bureau of Export Administration also informed the Commerce OIG that it includes its sister agencies as both guests and instructors in seminar programs in an effort to educate agency officials on the Bureau of Export Administration responsibilities in the export control arena, including deemed exports. Furthermore, the Bureau of Export Administration provided the Commerce OIG with the following information concerning some of its increased outreach activities to other Federal agencies regarding deemed exports.

- **Department of Energy.** In April 2000, the Bureau of Export Administration provided speakers and training material on the subject of deemed exports at the Energy Department's Export Control Coordinators Organization conference. The Export Control Coordinators Office is the coordinating body for those who deal with export controls at the various Energy laboratories. Furthermore, as a result of a recent administrative settlement with Energy's National Laboratories related to alleged violations of the Export Administration Regulations, the Bureau of Export Administration is currently hosting officials from Energy. During their stay in the Bureau of Export Administration, Energy personnel gain comprehensive insight into the Bureau of Export Administration priorities regarding licensing and enforcement concerns. Furthermore, in March 2001, the Office of Export Enforcement hosted an Export Control Seminar for Energy personnel at the Los Alamos, New Mexico, and Lawrence Livermore, California, National Laboratories. In addition to traditional export control concerns, the Director of the Office of Export Enforcement delivered a presentation on compliance with deemed exports to Energy personnel. Since March 2000, Office of Export Enforcement special agents have also participated in Project Outreach visits and the Bureau of Export Administration Export Seminars at Energy facilities that include the National Renewable Energy Laboratory, the Thomas Jefferson National Accelerator Laboratory, and the Oak Ridge National Laboratory.
- **Department of Defense.** In October 2000, the Office of Export Enforcement made a presentation at the Defense Logistics Agency annual agent training in Battle Creek, Michigan, during which both deemed exports and "traditional" export control matters were discussed. The Office of Export Enforcement is also involved in interagency working groups in Milwaukee, Wisconsin, and Detroit, Michigan, which focused on topics such as deemed exports.
- **National Aeronautics and Space Administration.** According to the Office of Export Enforcement, several of the National Aeronautics and Space Administration's operating units throughout the United States have been visited by Office of Export Enforcement special agents in the last 3 years. Specifically, the Office of Export Enforcement reported that it has visited the National Aeronautics and Space Administration, Dryden Flight Research Center, California, Johnson Space Center, Texas, Langley Research Center, Virginia, and Jet Propulsion Laboratory, California. According to the Office of Export Enforcement, visits

focused primarily on the deemed export of technology controlled under the Export Administration Regulations to visiting foreign scientists. The Office of Export Enforcement special agents have also taken part in annual National Aeronautics and Space Administration training at its Ames Research Center.

Recommendation: Clarify the term “fundamental research” in the deemed export regulations to leave less room for interpretation and confusion on the part of the scientific community.

Status: Open. While the Bureau of Export Administration generally concurred with this recommendation in its response to our draft report, in its July 2001 action plan, the Bureau of Export Administration stated that there is no indication that the definition of “fundamental research” is misused or misunderstood. The action plan also reiterated the Bureau of Export Administration’s position that the Export Administration Regulations adequately defines the term fundamental research in sections 734.8 and 734.11, as well as in a series of questions and answers in sections A through D of Supplement 1 to Part 734. In addition, the Bureau of Export Administration stated that the term fundamental research is further clarified in the Frequently Asked Questions section on the Bureau of Export Administration’s web site. Again, while we believe these references are all valuable tools for exporters, the explanation provided for fundamental research in all three of these resources is essentially a restatement of how the Export Administration Regulations defines this term. As such, we still maintain that U.S. entities could misuse this exemption by broadly defining fundamental research in order not to comply with deemed export controls. Therefore, we do not believe that the Bureau of Export Administration’s actions fully meet the intent of our recommendation.

Recommendation: Work with the National Security Council to determine what is the intent of the deemed export control policy and to ensure that the implementing regulations are clear in order to lessen the threat of foreign nationals obtaining proscribed sensitive U.S. technology inappropriately.

Status: Open. On March 14, 2000, in response to our draft report and just before issuance of the final report, the former Assistant Secretary for Export Administration sent a letter to the former Special Assistant to the President and Senior Director for Nonproliferation and Export Controls at the National Security Council requesting that it convene a working group of representatives from the Departments of Commerce, Defense, Energy, Justice, and State, and the Office of Management and Budget to review U.S. policy regarding deemed export technology transfers. While the Bureau of Export Administration has not followed up with the National Security Council to determine the status of its request, it has recently established a deemed export task force to review the current deemed export policy and process. According to the Bureau of Export Administration, the task force will consider input from other departments and industry. The Bureau of Export Administration indicated that once the task force completes its review, it would consult with the National Security Council on any possible revisions to the deemed export policy and process. The Bureau of Export Administration expects the task force to

complete its review in early 2002. We look forward to reviewing the task force's conclusions on deemed export controls. However, until the task force completes its review, this recommendation will remain open.

Recommendation: Track the number of visa application cables reviewed by the Director of the Office of Enforcement Analysis' Export License Review and Compliance Division, as well as those that are distributed to the analysts for an in-depth review.

Status: Closed. The Bureau of Export Administration estimates that the Director of the Office of Enforcement Analysis Export License Review and Compliance Division reviews between 15,000 and 20,000 visa application cables annually. A count of the visa applications that the Director believes need further review by the Office of Enforcement Analysis analysts are recorded on an electronic log, which is updated on a daily or weekly basis, as needed. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: For the Visa Application Review Program, assess whether the Office of Enforcement Analysis should continue to review the current level of visa application cables.

Status: Closed. According to the Bureau of Export Administration estimates, the Director of the Office of Enforcement Analysis Export License Review and Compliance Division reviewed between 15,000 and 20,000 of the 47,000 visa application cables received from the Department of State Telecommunications Center in FY 1999. The Bureau of Export Administration managers reexamined the cable profile for visa application cables to determine whether they could reduce the number of cables reviewed. That review determined that both the number and type of cables being reviewed by the Office of Enforcement Analysis is appropriate given current resource levels. Therefore, the Bureau of Export Administration believes there is no need to decrease the number of visa application cables that it reviews annually. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Work with State to have a worldwide cable issued to reiterate the need for complete information in the visa application cables, including specific information for all stops on a visa applicant's proposed trip to the United States.

Status: Closed. In our March 2001 follow-up report, we reported that the Office of Enforcement Analysis sent a letter to the State Department in July 2000, requesting that a worldwide cable be issued reiterating the need for complete information in the visa application cables. However, the Director of the Office of Enforcement Analysis' Export License Review and Compliance Division was not sure whether such a cable was ever issued. While the Office of Enforcement Analysis saw some improvement in the visa application cables, the Director felt that still more information would be helpful. Therefore, we requested that the Bureau of Export Administration again contact State to put out better guidance on what information is needed in the visa application cables.

On June 25, 2001, the Director of the Office of Enforcement Analysis' Export License Review and Compliance Division met with officials in the visa office at the State Department to discuss the need for additional information in the visa application cables, such as what individuals, companies, or institutions will be visited during each stop listed on the applicant's itinerary. Since the meeting, Office of Enforcement Analysis analysts have noticed an improvement in the information provided on the visa application cables. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Supplement the Visa Application Review Program training materials with additional reference information, to include checklists for the review process that are customized to the country of the visitor and type of place (company or Government facility) to be visited in the United States.

Status: Closed. The Director of the Office of Enforcement Analysis Export License Review and Compliance Division created a checklist that identifies which resources are to be checked by the analysts, based on the country of the visitor and the type of place to be visited in the United States. This checklist was disseminated to the analysts of the Office of Enforcement Analysis in July 2000. In addition, training and informational materials were subjected to a review to ensure continued applicability and usefulness. Finally, the Director of the Export License Review and Compliance Division meets regularly with staff members to ensure that all appropriate resources are being consulted during the review of visa application cables. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Change the Office of Enforcement Analysis referral queue in Enforce to permit statistical queries and electronic notification to the responsible agent of a visa referral being made involving an existing case.

Status: Open. The Bureau of Export Administration informed us that its current information technology priority is its Export Control Automated Support System redesign effort. As such, other information technology upgrades, such as changing the Office of Enforcement Analysis referral queue in Enforce as we have recommended, are receiving a lower priority and are effectively not being done. However, the Bureau of Export Administration is now in the process of contracting for an investigative tracking system that is scheduled to be operational in March 2002. This replacement system, an add-on to the existing Enforce system, will permit statistical queries and electronic notification to the responsible agent of a visa referral being made involving an existing case. This recommendation will remain open until the investigative tracking system and the changes we have recommended are operational.

Recommendation: Designate a point of contact in the Office of Export Enforcement Intel for receipt and review of all visa referrals and have this point of contact interface on a regular basis with an Office of Enforcement Analysis representative to ensure that visa cases are prepared, reviewed,

and referred to the field offices in a timely manner. Assess the effectiveness of this new procedure as part of the periodic assessment of the overall Visa Application Review Program.

Status: Closed. On May 8, 2000, the Director of the Office of Export Enforcement Intel was designated as the point of contact in the Office of Export Enforcement for receipt and review of all visa referrals. In addition, a change was made to the Enforce database so that incoming visa referrals from the Office of Enforcement Analysis now appear in the Office of Export Enforcement Intel Director's "tickler" file, which enhances their visibility and enables the director to review and refer the referrals to field offices more quickly. Both the Director of the Office of Enforcement Analysis' Export License Review and Compliance Division and the Director of the Office of Export Enforcement Intelligence have seen a significant improvement in the timeliness of visa application referrals being made to Office of Export Enforcement field offices. The Bureau of Export Administration has also pledged to review the new procedure as part of the periodic assessment of the overall Visa Application Review Program. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Institute a standard procedure for instances when the Office of Export Enforcement field offices uncover potential visa fraud that ensures that all such cases are referred to the appropriate office in the State Department in a timely manner.

Status: Closed. On May 12, 2000, the Office of Export Enforcement sent procedural guidance to its field offices regarding reporting instances of possible visa fraud to State. Under the new procedures, all instances of possible visa fraud identified by Office of Export Enforcement field agents will be forwarded directly to the Office of Enforcement Analysis, with an informational copy provided to Office of Export Enforcement Intelligence at headquarters. Upon receipt of any referrals of possible visa fraud, the Office of Enforcement Analysis immediately sends the information to the appropriate State Office for action. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Develop procedures within the Office of Enforcement Analysis to ensure that visa fraud referrals are made to State within the appropriate 10 or 15-working day suspense period.

Status: Closed. On May 12, 2000, the Office of Enforcement Analysis sent guidance to the analysts who review the visa application cables instructing them that if during review of a visa application cable they discover apparent or possible visa fraud, analysts are to report the information to State immediately (via facsimile) and prior to further review or referral elsewhere. According to the Director of the Office of Enforcement Analysis Export License Review and Compliance Division, no referrals for visa fraud have been made since we made this recommendation. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Stop making visa application referrals to State involving an entity on the Entity List.

Status: Closed. Effective April 1, 2000, the Office of Enforcement Analysis stopped making visa application referrals to State for entities listed on the Bureau of Export Administration Entity List.¹⁹ Such referrals are now only made to the Office of Export Enforcement for appropriate action. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Assess the Visa Application Review Program periodically, after the refinements we are recommending and others have been implemented, to determine whether the resources dedicated to the program justify the results. To that end, the Bureau of Export Administration should develop performance measures to help in determining the program's success.

Status: Open. While the Bureau of Export Administration has not formally assessed the visa application review program as we recommended, the agency has taken action to conclude that the resources dedicated to the program do justify the results. Specifically, the Bureau of Export Administration measures the number of investigative referrals made to the Office of Export Enforcement resulting from the visa application review program. In addition, the outcome of those referrals is evaluated at least annually. While the Bureau of Export Administration admits that leads from visa referrals are not always as fruitful as those from other sources, there are always some significant cases resulting from visa referrals included in the agency's annual report to the Congress. In addition, the importance of the visa application review program has also been highlighted since the September 11, 2001, terrorist attacks on the United States.

Recommendation: Work with the State Department and other interested agencies to formalize the review of visa applications under the Visas Mantis program in a memorandum of understanding. In addition, encourage the State Department to establish criteria for visa denials and develop a process for feedback so that the participating agencies are kept apprised of the results of their referrals.

Status: Closed. The State Department formalized the review of visa applications under the Visas Mantis program in an August 9, 2000, memorandum of understanding, which does contain criteria for visa denials. However, State has not developed a process for feedback to keep the participating agencies apprised of the results of the referrals. However, according to the Director of the Office of Enforcement Analysis Export License Review and Compliance Division, since the Commerce OIG report was issued, communication between State and the Bureau of Export Administration has improved significantly. In addition, meetings are being held more frequently among the Bureau of Export Administration, State, and other participating

¹⁹The Bureau of Export Administration Entity List is a published listing of foreign end users involved proliferation activities.

agencies. However, the Bureau of Export Administration would still like to obtain formal feedback on referrals that it makes to State, and it has made such a request to State. State has not responded to the Bureau of Export Administration request, and it may be because the Bureau of Export Administration has made just a few visa application referrals to State during last year. Thus, creating a system to provide feedback on the disposition of those few referrals may not be a high priority for State at this time. The State OIG, which made a similar recommendation in its 2000 report, will follow-up to determine precisely why State has not implemented the feedback portion of the recommendation. The Bureau of Export Administration actions meet the intent of our recommendation.

Recommendation: Ensure that all future Committee on Foreign Investment in the United States filings, especially those involving countries of concern, are forwarded to both Export Enforcement and Export Administration's appropriate licensing office for review. In addition, make certain that any referral and recommendations are documented in the Committee on Foreign Investment in the United States case file.

Status: Closed. Although the Bureau of Export Administration has not issued written procedures for referring Committee on Foreign Investment in the United States cases to Export Enforcement and Export Administration, its Committee on Foreign Investment in the United States database now includes separate line items for "To Export Enforcement" and "Export Control Automated Support System checked," which prompt the analyst entering the data to perform these checks. In addition, since July 2001, the Office of Strategic Industries and Economic Security have performed its own Export Administration checks, because the Committee on Foreign Investment in the United States analyst now has access to the Export Control Automated Support System. According to the Bureau of Export Administration, each Committee on Foreign Investment in the United States file is reviewed by the Director of that office to ensure the Export Enforcement and Export Control Automated Support System checks are completed. The Bureau of Export Administration's actions meet the intent of our recommendation.

Recommendation for the National Institute of Standards and Technology

Recommendation: Ensure that the National Institute of Standards and Technology Cooperative Research and Development Agreements²⁰ or any other agreements that the National Institute of Standards and Technology may have with the private sector include a statement specifying its private sector partners' need to comply with export control laws, such as obtaining

²⁰A cooperative research and development agreement, or Cooperative Research and Development Agreements, is one means that the U.S. Government uses for technology transfer to the private sector. Cooperative Research and Development Agreements are used when research being conducted jointly by Federal laboratories and non-Federal parties is more likely to result in the development of an invention and would generally increase the possibility that deemed export licenses could be required.

a deemed export license for their foreign national employees, if applicable, before working on National Institute of Standards and Technology research projects.

Status: Closed. The terms and conditions of the standard National Institute of Standards and Technology Cooperative Research and Development Agreements document were modified to include a clause on the export of technical data. According to the National Institute of Standards and Technology, all new Cooperative Research and Development Agreements executed by the National Institute of Standards and Technology after April 7, 2000, include the new clause. Existing Cooperative Research and Development Agreements that are extended or amended for any reason will also include the clause as part of the new amendment. In addition, the National Institute of Standards and Technology is currently examining its other agreements with the private sector to determine on a case-by-case basis whether those agreements should also contain an export control clause. As a part of this exercise, the Commerce OIG would encourage the National Institute of Standards and Technology to examine its existing Cooperative Research and Development Agreements that may not come up for an extension or amendment to determine if they also need to be amended to include the export clause. The National Institute of Standards and Technology actions meet the intent of the Commerce OIG recommendation.

Recommendation for the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the Bureau of Export Administration

Recommendation: Establish procedures to ensure that technical information or know-how released to foreign nationals is in compliance with Federal export licensing requirements. At a minimum:

- (a) Develop guidance regarding when a visit, assignment, or collaborative relationship of a foreign national to the National Institute of Standards and Technology or the National Oceanic and Atmospheric Administration facility requires a deemed export license.**
- (b) Clearly state policies, procedures, and responsibilities of the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration hosts for determining whether a deemed export license is required.**
- (c) Establish a focal point at each appropriate Administration whether a deemed National Institute of Standards and Technology and at the National Oceanic and Atmospheric export license is required when a foreign national visits the facility.**
- (d) Develop an export control program document containing procedures for determining whether technology or commodities at the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration facilities can be exported to foreign countries, with or without a license.**

(e) Mandate training requirements for personnel at the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration facilities on the deemed export licensing requirements.

National Institute of Standards and Technology. Status: Closed. In response to the Commerce OIG recommendations, the National Institute of Standards and Technology established an Export Control Working Group, which includes officials from the major National Institute of Standards and Technology management groups and divisions. The primary mission of the group is to (1) review its current export control policies and procedures and propose improvements where needed, (2) draft written policy guidelines on export controls for National Institute of Standards and Technology personnel, and (3) draft training materials on export controls for National Institute of Standards and Technology personnel. On March 24, 2000, the Working Group had a kick-off meeting, which included a presentation by Bureau of Export Administration officials. In May 2000, pending the adoption of formal written procedures, the offices of the National Institute of Standards and Technology Counsel and International and Academic Affairs instituted short-term procedures for processing foreign guest workers working at the National Institute of Standards and Technology. Workers coming from organizations on the Bureau of Export Administration Entity List or from embargoed countries, regardless of which project they will be participating in at the National Institute of Standards and Technology, were to be first vetted through the Office of the National Institute of Standards and Technology Counsel and formal applications for deemed export licenses. According to the National Institute of Standards and Technology, it has filed two deemed export license applications with the Bureau of Export Administration since March 2000. Both applications were returned without action because no license was required.

Subsequently, a June 2000 memorandum from the Director of the National Institute of Standards and Technology Program Office was sent to all the division chiefs informing them of U.S. export control laws and regulations governing the sharing of information with foreign nationals. The memorandum also requested that each chief provide the name, country of origin, and detailed description of the research being conducted by each guest worker currently visiting the National Institute of Standards and Technology (as well as in the future) who comes from one of the countries listed on the restricted countries list contained in the International Traffic in Arms Regulations (ITAR).²¹

²¹The ITAR list includes the Bureau of Export Administration embargoed countries. When the Commerce OIG questioned the National Institute of Standards and Technology as to why it used the ITAR list as a baseline for its division chiefs to follow, the National Institute of Standards and Technology informed it that the original intent of the memorandum was for the National Institute of Standards and Technology to identify research being conducted by foreign guest workers from countries of concern, such as those from China, India, and Pakistan. However, the National Institute of Standards and Technology pointed out that it is aware of the Bureau of Export Administration Entity List and Denied Persons List as indicated by the fact that it applied for two deemed export license applications for individuals coming from an entity that appears on the Bureau of Export Administration Entity List. The National Institute of Standards and Technology stated that any future instruction on this issue will include references to not only the ITAR-restricted list, but also the Bureau of Export Administration Entity and Denied Persons Lists.

According to the memorandum, this information is to be forwarded to the Office of International and Academic Affairs. Finally, the memorandum designates the Office of the National Institute of Standards and Technology Counsel as the focal point for export control guidance, including questions and clearances.

In August 2000, the Director of the National Institute of Standards and Technology sent a memorandum to all National Institute of Standards and Technology employees on the "Do's and Don'ts When Dealing With Intellectual Property, Proprietary Information and Companies." The memorandum is essentially a list of 10 principles to help National Institute of Standards and Technology employees ensure that all their dealings with outside parties are ethical and are in compliance with federal law, regulation, and policy. Item 6 on the list warns against the disclosure of technical information to non-U.S. citizens and briefly explains the concept of deemed exports.

Finally, since issuance of the Commerce OIG March 2000 report, the National Institute of Standards and Technology has held three training sessions, primarily geared to National Institute of Standards and Technology personnel involved in the Advanced Technology Program's intramural activities that include a discussion of export control-related issues, including deemed exports. Furthermore, the National Institute of Standards and Technology is planning another series of training courses involving general scientific collaborations during the coming year that is also expected to incorporate a discussion of export control-related issues. The National Institute of Standards and Technology actions meet the intent of our recommendations.

National Oceanic and Atmospheric Administration. Status: Open. Since our March 2001 follow-up report, the National Oceanic and Atmospheric Administration's the National Environmental Satellite, Data, and Information Service formed an Export Action Team with representation from all of its major divisions. According to a National Environmental Satellite, Data, and Information Service official, this team serves as a formal structure to both review incoming export actions, and make sure that line office activities are staffed for export compliance. We were also told that key members of this team, as well as a representative from the National Oceanic and Atmospheric Administration's Office of General Counsel, have taken several export training classes. In addition, the National Environmental Satellite, Data, and Information Service reportedly maintains close contact with the State Department and the National Aeronautics and Space Administration regarding munitions export requirements and export licenses for its satellite programs.

Furthermore, we were told that the National Environmental Satellite, Data, and Information Service is developing an International Visitor Policy that will provide comprehensive guidance to its staff on various requirements, including export controls, security, and visa issues. In addition, the National Environmental Satellite, Data, and Information Service informed us that it is developing an export control awareness and training program that can be presented to its staff on a regular basis and believes that the Bureau of Export Administration's help in this effort would be valuable.

Finally, the National Environmental Satellite, Data, and Information Service hopes that the recently formed Commerce Remote Sensing Working Group, with representation from the International Trade Administration, the Technology Administration, the Bureau of Export Administration, and the National Oceanic and Atmospheric Administration, will afford it the opportunity to deal with export control issues related to commercial remote sensing satellites.

We are pleased to report that the National Environmental Satellite, Data, and Information Service actions to improve its compliance with export controls in general, and deemed export controls in particular, are meeting the intent of our recommendations. We believe that the National Oceanic and Atmospheric Administration's other line offices could benefit from similar actions.

While one National Oceanic and Atmospheric Administration official informed us that its other line offices do not believe this issue is relevant to them, we believe it is. Given the complexity of deemed export controls, we strongly urge the National Oceanic and Atmospheric Administration to respond to the Bureau of Export Administration's May 31, 2001, offer to discuss this issue to determine whether additional efforts need to be taken by the National Oceanic and Atmospheric Administration's other line offices to ensure that technical information or know-how released to foreign nationals is in compliance with Federal export licensing requirements. As a result, the National Oceanic and Atmospheric Administration's actions have not fully met the intent of our recommendation.

Recommendation for the International Trade Administration and the Bureau of Export Administration

Recommendation: Determine whether the International Trade Administration or the Bureau of Export Administration is the appropriate Commerce organization to take the lead on Committee on Foreign Investment in the United States matters.

Status: Closed. The Bureau of Export Administration and the International Trade Administration agree that the Commerce responsibility for coordinating Committee on Foreign Investment in the United States matters should continue to reside in the International Trade Administration, because neither party believes that a transfer of administrative responsibilities would enhance the effectiveness of Commerce's Committee on Foreign Investment in the United States review process. However, neither agency could provide a justification as to why the International Trade Administration is the more appropriate Commerce organization to take the lead on the Committee on Foreign Investment in the United States. Regardless, the two bureaus agreed to work closely together, as well as with other interested departmental units, to ensure that all Committee on Foreign Investment in the United States cases are reviewed thoroughly. The Bureau of Export Administration and the International Trade Administration actions meet the intent of our recommendation.

Department of Defense

Status of the Inspector General, DoD, Report No. D-2001-088, “DoD Involvement in the Review and Revision of the Commerce Control List and the U.S. Munitions List,” March 23, 2001

Recommendation for the Deputy Under Secretary of Defense (Technology Security Policy)

Recommendation: Establish a process for working with Commerce to facilitate periodic interagency reviews of the Commerce Control List.

Status: Open. The Deputy Under Secretary of Defense (Technology Security Policy) stated that Defense will work with Commerce to encourage them to adopt a regular schedule for reviewing relevant portions of the Commerce Control List and ensure that the list is up to date to reflect the most recent international security environment and technology.

Recommendation. Work with Commerce to determine if any of the items currently controlled unilaterally by the United States should be removed from the Commerce Control List.

Status: Open. The Deputy Under Secretary of Defense (Technology Security Policy) stated that while foreign policy is not a direct Defense responsibility, Defense does agree that regular interagency reviews of items on the Commerce Control List controlled unilaterally might benefit from Defense expertise. Defense will endeavor to offer its expertise to Commerce and State for reviews of the Commerce Control List.

Recommendation. Work with Commerce to determine if any of the countries to which controls apply should be removed from the Commerce Country Chart.

Status: Open. The Deputy Under Secretary of Defense (Technology Security Policy) concurred, stating that although complicated the Commerce Country Chart needs to be updated to reflect the most recent international security environment. Defense will support a review of the Commerce Country Chart in the Export Administration Regulation.

Recommendation. Establish goals and procedures for the Military Critical Technologies Program to include scheduled meetings of all Technical Working Groups on a periodic basis and ensure that a Military Critical Technologies Program adequately supports the Technical Working Groups in their review of the Militarily Critical Technologies List at regular intervals.

Status: Closed. The Deputy Under Secretary of Defense (Technology Security Policy) stated that Technical Working Groups can be a valuable technical resource to augment Defense capabilities. The Defense Threat

Reduction Agency intends to continue to schedule meetings of Technical Working Groups that will augment resources as necessary with appropriate regularity to meet Defense export control requirements.

Recommendation for the Director, Defense Threat Reduction Agency

Recommendation. Ensure that adequate funding and resources are available to support regular reviews of the list of Militarily Critical Technologies.

Status: Closed. The Deputy Under Secretary of Defense (Technology Security Policy) concurred, stating that adequate funding and resources should be available to support regular review of the list of Militarily Critical Technologies. However, the Militarily Critical Technologies Program is not the only resource that the Defense Threat Reduction Agency and Defense use examining and modifying export control lists, and past resources have been adequate to meet requirements.

Recommendation: Provide adequate resources to decrease processing times for review of commodity jurisdiction requests.

Status: Open. The Deputy Under Secretary of Defense (Technology Security Policy) stated that the Defense Threat Reduction Agency and Defense increased the Technology Security Directorate Licensing Division by 12 employees. However, commodity jurisdiction request determinations are often complicated and require more time than license applications reviews. While Defense agreed that processing times for commodity jurisdiction requests could be improved, processing time was not a metric for determining the effectiveness of the commodity jurisdiction request process as with license applications review.

Recommendation for the Deputy Under Secretary of Defense (Technology Security Policy) and Director, Defense Threat Reduction Agency

Recommendation: (with the assistance of Commerce) Establish a process whereby all commodity classification requests are reviewed by the Defense Threat Reduction Agency in a disciplined and transparent procedure with strict time frames.

Status: Open. The Deputy Under secretary of Defense (Technology Security Policy) concurred, stating that Defense is continuing to discuss the important matter of handling commodity classification requests with Commerce and other agencies, particularly in context of Senate consideration of a bill to reauthorize the Export Administration Act.

**Status of the Inspector General, DoD, Report No. D-2000-110,
“Export Licensing at DoD Research Facilities,” March 24, 2000**

Recommendations for the Under Secretary of Defense for Policy

Recommendation: Coordinate with Commerce and State to develop guidance regarding when a visit or assignment of a foreign national to a Defense facility requires a deemed export license.

Status: Open. The Director, Defense Research and Engineering is working with the Defense Threat Reduction Agency to coordinate with Commerce and State to develop guidance regarding visits or assignments of foreign nationals to a Defense research facility that requires a deemed export license. Anticipated completion date is April 2002.

Recommendation: Revise DoD Directive 2040.2, “International Transfers of Technology, Goods, Services, and Munitions,” to clearly state policies, procedures, and responsibilities of DoD and Military Department hosts for determining whether a deemed export license is required when a foreign national visits a Defense facility.

Status: Open. The Defense Technology Security Administration has reported that the revision should be ready for DoD-wide coordination by October 2002.

Recommendation: Revise DoD Directive 5230.20, “Visits, Assignments, and Exchanges of Foreign Nationals,” to clearly state policies, procedures, and responsibilities of DoD and Military Department hosts for determining whether a deemed export license is required when a foreign national visits a Defense facility.

Status: Open. A report from the Office of the Under Secretary of Defense (Policy) on the status of this corrective action is expected by April 2002.

Recommendations for the Director for Defense Research and Engineering

Recommendation: Coordinate with Commerce and State to develop guidance regarding when a visit or assignment of a foreign national to a Defense facility requires a deemed export license.

Status: Open. The Director, Defense Research and Engineering is working with the Defense Threat Reduction Agency to coordinate with Commerce and State to develop guidance regarding when a visit or assignment of a foreign national to a Defense research facility requires a deemed export license. Anticipated completion date is April 2002.

Recommendation: Establish a focal point at each Defense research facility to determine whether a deemed export license is required when a foreign national visits the facility.

Status: Open. When export control program guidance has been fully developed, the Director, Defense Research and Engineering will develop a memorandum directing that each Defense research facility appoint a focal point for deemed export license determinations and direct the use of the guidance document to be developed, as described below. Anticipated completion date was originally reported as July 31, 2001. Completion has not been reported and no new anticipated completion date has been supplied.

Recommendation: Develop an export control program document containing procedures for determining if technology or commodities at Defense research facilities can be exported, with or without a license, including circumstances that may constitute exemptions from requirements of the Export Administration Regulations or the International Traffic in Arms.

Status: Open. The Director, Defense Research and Engineering is working with Defense Threat Reduction Agency to develop an export control program document that contains procedures for determining whether technology or commodities at Defense research facilities can be exported to foreign countries, with or without a license. Guidance developed jointly with Commerce and State will be included. The document is to be coordinated with the Office of the Under Secretary of Defense (Policy) and Service representatives prior to submission for publication. Anticipated completion date was originally reported as July 13, 2001. Completion has not been reported and no new anticipated completion date has been supplied.

Recommendation: Mandate training requirements for personnel at Defense research facilities on the deemed export licensing requirements of the Export Administration Regulations and the International Traffic in Arms Regulations.

Status: Open. The Director, Defense Research and Engineering has been working with the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to develop a process that improves counterintelligence support to DoD research facilities. The process includes development of Counterintelligence Support Plans at each facility. Each Counterintelligence Support Plans will include a requirement for threat awareness training for all personnel at these facilities. The Director, Defense Research and Engineering will work with the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to ensure that the training addressed in the Counterintelligence Support Plans includes deemed export licensing requirements and that deemed export licensing is addressed in implementing regulation for draft DoD Directive 5230.39, "Research and Technology Protection Within the Defense Department." No estimated date of completion was provided.

Recommendation: The Deputy Under Secretary of Defense (International and Commercial Programs) rescind the 1994 policy memorandum, "Implementing Arrangements to Research and Development Umbrella Agreements," and revise DoD Instruction 2015.4, "Mutual Weapons

Development Data Exchange Program and Defense Development Exchange Program,” to delegate authority to the Military Departments for coordinating data exchange agreement annexes with Commerce.

Status: Open. In November 2000, a Statement of Principles between Defense and Commerce was signed. The Statement concerns the consultation of acquisition, technology and logistics-related international agreements, including Data Exchange Annexes and Information Exchange Annexes, between both Defense and Commerce. A December 13, 2000, memorandum from the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) requires the Military Departments to transmit draft Data Exchange Annexes or Information Exchange Annexes to Commerce for review prior to signature. The Director, International Cooperation from the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) said that his office was planning to update the processes in DoD Directive 2015.4. No estimated date of completion was provided.

Recommendation for the Services: Army, Navy, and Air Force

Recommendation: Army, Navy, and Air Force update their guidance to delineate clear procedures for coordinating Data Exchange Annexes with Commerce.

Status: Open. The three Services have agreed to update their respective guidance, upon the revision of DoD Directive 2015.4. Action is awaiting the above revision.

Department of Energy

Status of the Energy OIG Report No. DOE/IG-0465, “Inspection of the Department of Energy’s Export License Process for Foreign National Visits and Assignments,” March 2000

Corrective action for three of the eight recommendations in the March 2000 report were completed and the recommendations were closed. Five recommendations are currently open pending issuance of an Energy order regarding foreign visits and assignments. When issued, the Energy OIG will assess the responsiveness of the Energy order to the recommendations and determine whether the remaining recommendations should be closed.

Recommendation 1: Energy should ensure that senior Energy officials work with senior Commerce officials to assure clear, concise, and reliable guidance is obtained in a timely manner from Commerce regarding the circumstances under which a foreign national’s visit or assignment to an Energy site would require an export license.

Status: Closed. Energy reported that on April 20, 2000, guidance on “Deemed Exports” was published and submitted to Energy elements and that this guidance was reviewed by the Field Management Council and approved by

the Deputy Secretary. The guidance explains what a deemed export is, when a deemed export requires an export license, and how a deemed export can occur. The guidance also provides directions for technical reviews to take place by facility individuals familiar with technology, equipment or material involved and with applicable export control regulations. Based upon Energy's actions, the recommendation is closed.

Recommendation 2: Energy should ensure that a proposed revision of the Energy Notice concerning unclassified foreign visits and assignments includes the principal roles and responsibilities for hosts of foreign national visitors and assignees.

Status: Open. Energy reported that the recommendation is consistent with the current and ongoing Energy initiative to update and clarify foreign visit and assignment policy. Energy further reported that the new draft DoE Order 142.X, "Unclassified Visits and Assignments by Foreign Nationals" includes the principal roles and responsibilities for hosts of foreign national visitors and assignees. Energy reported that the completion of this recommendation is deferred because publication of the order was halted in March 2001 as part of a 6-month hiatus from publishing security-related orders. Energy reported that the halt and 6-month hiatus are in response to the National Nuclear Security Administration and the Energy Office of Science review of the outstanding security-related orders, policies, notices, procedures, and processes. This recommendation remains open pending the issuance of the Energy Order.

Recommendation 3: Energy include a requirement for Energy and Energy contractor officials to enter required foreign national visit and assignment information in the Foreign Access Records Management System, or a designated central data base, in a complete and timely manner.

Status: Closed. Energy reported that a new Energy-wide information system, the Foreign Access Centralized Tracking System, was developed and implemented. Energy further advised that draft DoE Order 142.X includes a requirement for Energy sites to enter required foreign national visit and assignment information into the Foreign Access Centralized Tracking System in a complete and timely manner. We determined that because this recommendation duplicates recommendation eight, we consider recommendation three closed.

Recommendation 4: The Manager of Energy's Oak Ridge Operations Office should ensure that requests for foreign national visits and assignments at the Oak Ridge site are reviewed by the Y-12 National Security Program Office to assist in identifying those foreign nationals who may require an export license in conjunction with the visit or assignment.

Status: Closed. Energy reported that to ensure requests for foreign national visits and assignments at the Oak Ridge National Laboratory receive appropriate export license consideration, Oak Ridge National Laboratory initiated a system of reviews. Under the system, requests are reviewed by five separate disciplines (Cyber Security, Export Control, Classification, Counterintelligence, and Security). In addition, requests associated with

concerns are referred for resolution to the Non-citizen Access Review Committee. Energy further reported that while each of the reviews can involve National Security Program Office, the Oak Ridge National Laboratory Export Control Office is responsible for referring requests to National Security Program Office as necessary. Based on the actions taken by the Oak Ridge Manager, the recommendation was closed. However, we will track the issue under recommendation eight.

Recommendation 5: The Department of Energy should ensure that the requirements in the revised Energy Notice for unclassified foreign national visits and assignments are clearly identified and assigned to responsible officials or organizations.

Status: Open. Energy reported that draft DoE Order 142.X includes clear identification of requirements and assignments to responsible officials or organizations. Energy reported that completion of this recommendation is deferred because publication of the order was halted in March 2001 as part of a 6-month hiatus for publishing security-related orders. Energy reported that the halt and 6-month hiatus are in response to the National Nuclear Security Administration and the Energy Office of Science review of outstanding security-related orders, policies, notices, procedures, and processes. This recommendation remains open pending the issuance of the Energy Order.

Recommendation 6: Energy should ensure that guidance issued by the Office of Nuclear Transfer and Supplier Policy to advise hosts of their responsibilities regarding foreign nationals includes the appropriate level of oversight to be provided by the host during the period of the visit or assignment.

Status: Open. Energy reported that draft DoE Order 142.X includes the principal roles and responsibilities for hosts of foreign national visitors and assignees. Energy reported that completion of this recommendation is deferred because publication of the order was halted in March 2001 as part of a 6-month hiatus for publishing security-related orders. The Department reported that the halt and 6-month hiatus are in response to the National Nuclear Security Administration and the Energy Office of Science review of outstanding security-related orders, policies, notices, procedures, and processes. This recommendation remains open pending the issuance of the Energy Order.

Recommendation 7: Energy should revise the Energy policy regarding foreign national visits and assignments to ensure that Energy sites are maintaining consistent information about foreign nationals visiting or assigned to work at the site.

Status: Open. Energy reported that draft DoE Order 142.X requires development of consistent information and input into the Foreign Access Centralized Tracking System. Actions are underway to implement standard templates to upload historical information from Energy's site legacy systems into the Foreign Access Centralized Tracking System. Energy reported that completion of this recommendation is deferred because publication of the order was halted in March 2001 as part of a 6-month hiatus from publishing

security-related orders. Energy reported that the halt and 6-month hiatus are in response to the National Nuclear Security Administration and the Energy Office of Science review of outstanding security-related orders, policies, notices, procedures, and processes. The recommendation remains open pending the issuance of the Energy Order.

Recommendation 8: Energy should require that all Energy sites with foreign national visitors or assignees enter information regarding the visits or assignments into Foreign Access Records Management System, or a designated central Energy database.

Status: Open. Energy reported that the Foreign Access Centralized Tracking System was developed and implemented and that draft DoE Order 142.X includes the requirement for sites to enter required foreign national visit and assignment information into the Foreign Access Centralized Tracking System in a complete and timely manner. Energy reported that completion of this recommendation is deferred because publication of the order was halted in March 2001 as part of a 6-month hiatus from publishing security-related orders. Energy reported that the halt and 6-month hiatus are in response to the National Nuclear Security Administration and the Energy Office of Science review of outstanding security-related orders, policies, notices, procedures, and processes. The recommendation remains open pending the issuance of the Energy Order.

Department of State

Status of State OIG Report No. 01-FP-M-027, “U.S. Munitions List and the Commodity Jurisdiction Process,” March 2001

Recommendations for the Office of Defense Trade Controls (State)

Recommendation: Develop procedures to regularly notify Commerce and Defense of deadlines for specific cases to conform with National Security Council time guidelines.

Status: Open. The Office of Defense Trade Controls stated that it has made an effort to close cases that exceeded the guidelines, to keep new cases within the guidelines, and to ensure that both departments are notified of deadlines consistent with National Security Council guidelines. The recommendation remains open pending receipt of an office plan that incorporates National Security Council performance measures.

Recommendation: Develop and implement a plan to improve its commodity jurisdiction procedures in order to meet National Security Council time guidelines.

Status: Open. The Office of Defense Trade Controls stated that it has assigned a second, full-time licensing officer. The recommendation remains open pending receipt of documentation of the Office of Defense Trade Controls

authorized position changes for the additional licensing officer and receipt of an office plan that outlines improvements to its commodity jurisdiction procedures.

Recommendation: Inform the relevant agencies of all the commodity jurisdiction requests that it receives and inform relevant agencies of the decision on each jurisdiction request.

Status: Open. The Office of Defense Trade Controls stated that it informs Defense and Commerce of any commodity jurisdiction requests received and decisions made. The recommendation remains open pending receipt of documentation of the Office of Defense Trade Controls procedural changes that have taken place.

Recommendation: Create a more efficient and transparent commodity jurisdiction process by coordinating with Commerce and Defense to obtain a secure automated system for processing, referring, and storing historical data on commodity jurisdiction cases.

Status: Open. The Office of Defense Trade Controls stated that an electronic licensing proof of concept that would allow automated handling of commodity jurisdiction cases is being developed. The recommendation remains open pending receipt of a copy of the proof of concept, its scope, security features, and connectivity with Commerce. The Bureau of Information Resource Management must also approve the proof of concept before the recommendation can be closed.

Recommendation: Coordinate with the Bureau of Information Resource Management and establish an e-mail system.

Status: Closed. The Office of Defense Trade Controls stated that licensing personnel have e-mail connectivity with other State offices and Defense on ClassNet and that they will be given priority for installation of Open Net Plus when the system is certified. Based on that action, the recommendation is closed.

Recommendation: Coordinate with Commerce and Defense in updating the 1992 memorandum of understanding on night vision commodities and request that Defense add the U.S. Munitions List category for night vision commodities to the Defense Trade Security Initiative Number 17 review for 2002.

Status: Closed. The Office of Defense Trade Controls stated that it proposed to Defense that the relevant category should be included in the U.S. Munitions List review. Defense agreed and the review is ongoing. The corrective action is responsive to the OIG recommendation and it is closed.

Recommendation: Establish written policies and procedures for the Government jurisdiction process in coordination with all Government agencies involved in the commodity jurisdiction process.

Status: Open. The Office of Defense Trade Controls stated that it has taken steps to remind Defense and Commerce that the commodity jurisdictions are to be relied on in jurisdictional questions engaging U.S. exporters. The recommendation remains open pending receipt of a copy of the Office of Defense Trade Controls notification to Defense and Commerce.

**Status of State OIG Report No. 00-CI-008, “Department of State Controls Over the Transfer of Military Sensitive Technologies to Foreign Nationals from Countries and Entities of Concern,”
March 2000**

Recommendations for the Office of Defense Trade Controls (State)

Recommendation: The Office of Defense Trade Controls should improve its tracking capabilities for foreign nationals on export munitions licenses to prevent the transfer of sensitive data to countries of concern. The Office of Defense Trade Controls should use its existing database to track foreign nationals listed on export munitions licenses, including, at a minimum, the name and nationality of the individual.

Status: Closed. The Office of Defense Trade Controls reported that it has established the computer coding capability to track foreign nationals from countries of concern whose U.S. Defense industry employment has been authorized by a munitions license.

Recommendation: The Office of Defense Trade Controls should highlight in its outreach programs compliance with existing licensing requirements for the transfer of information to foreign nationals.

Status: Closed. The Office of Defense Trade Controls reported that it has participated in seminars, workshops, and conferences where they presented information regarding the transfer of information to foreign nationals. Based on this action, the recommendation is closed.

Recommendation: The Office of Defense Trade Controls should develop a plan of action, based on an analysis of the effectiveness of the first year program, for the number and scope of future reviews including additional personnel and resources.

Status: Open. The Office of Defense Trade Controls reported that audits are conducted through on-site visits and by corporate and outside audit staff under the direction of the Office of Defense Trade Controls. The recommendation remains open pending receipt of an action plan.

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Secretary of State Comments

INFORMATION MEMORANDUM

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TO: OIG - Clark Kent Ervin

FROM: PM - Lincoln P. Bloomfield, Jr.

SUBJECT: PM Comments on Draft "Interagency Review of
Federal Automated Export Licensing Systems,
February 20, 2002"

PM appreciates the opportunity to comment on the subject report. Like the recent State OIG report on Information Technology (IT), it tackles a complex and dynamic subject and gives the PM Bureau much to consider as we reform the defense trade controls function.

Some comments/corrections about the report's details are attached that I hope are useful, especially as the interagency review arose from a legislative mandate and will be reported to the Congress. I would place our emphasis, however, on the few following observations:

With regard to the characterization of the munitions license review process as "inefficient and unnecessarily burdensome" in the Executive Summary and elsewhere, we question whether it is justified by the facts. We accept the need for the introduction of greater efficiencies as reflected in your report. We acknowledge and intend to implement these improvements as I described during our meeting as well as in my memorandum response to your report. About 70 percent of State's 45,000-case per annum licensing workload is handled in a median time of 7 days and a recent GAO report indicated that the State processing times are similar to those of Commerce. Taking into account the modest personnel and budget resources available to DTC when compared to other agencies with similar functions, and the significant improvements in processing times that have taken place in the first year of this administration, we believe the process as a whole has ample

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room for improvement, but merits a characterization than "inefficient". As you know, I am developing a package of process improvement initiatives, some of which are listed below, and have informed the Secretary of my ongoing effort to conduct a comprehensive process review.

- The IT connectivity between the Office of Defense Trade Controls (DTC) and the Department of Defense (DoD) is already substantial. Although DoD interrupted the FORDTIS connection that had existed for many years when DTC relocated from Rosslyn, Virginia to its current premises in Washington, D.C., a T-1 line was established and terms of reference for its use and maintenance were agreed upon in Summer 2001. Since that time, DTC has received DoD national security-related comments on thousands of cases and has successfully sent, via a fully electronic medium, several hundred cases to DoD in support of Operation Enduring Freedom. Since the beginning of 2002, with the completion of a State electronic licensing "proof of concept", the policy and technical dialogue concerning this connectivity, including systems architecture and information security, has intensified dramatically. State is eager to send additional types of license applications via the T-1 line and is currently awaiting the development and fielding of DoD capability to receive and disseminate such cases electronically to the military services and Defense policy offices.
- DTC and U.S. Customs already share relevant licensing data and the agreed upon requirements. The planned September 2002 implementation of the Automated Export System (AES) will enhance this relationship. No new State IT development or procurement is anticipated for this purpose.
- PM acknowledges the recommendation to take the lead in developing a memorandum of understanding with several agencies to address IT systems and coordination requirements. As we explore the process and timing for such an undertaking, both within and outside the Department, we intend to continue our energetic efforts in support of the following initiatives:

-- PM will expeditiously work to complete the license process re-engineering that I outlined in my February 12, 2002 memorandum to you. This will include establishment of

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guidelines for handling cases within the Department, to include identification of the types of cases to be staffed, and timelines for review.

-- To ensure that future IT developments are in full compliance with federal laws and regulations, PM will continue working with VC/VO and IRM in several areas to include network communications, process analysis and modeling, systems certification and accreditation requirements, systems analysis and development, and procurement.

-- PM will also continue to maintain regular and transparent exchanges with DoD, the key recipient of munitions export license cases that are staffed outside of DTC, regarding systems development. We will establish formal licensing review guidelines, recognizing that these will bear future refinement based on the results of a six-month electronic licensing pilot program to be initiated in the near future. We will also use this pilot program experience to evaluate how best to address connectivity with the Department of Energy, which is only infrequently involved in munitions export cases. Assistant Secretary-level terms of reference for information exchanges with U.S. Customs have been in place since 1992; this process will be enhanced by implementation of (AES) under a State-Census memorandum of understanding. We are also having frequent exchanges industry and the Commerce Department.

In sum, PM is prepared to pursue the report's recommendation for an approach to improved automation in the munitions export licensing process involving other agencies. I will assume executive-level oversight for this bureau and, as need be, the Department, as we explore the report's recommendation that the Secretary of State develop and an interagency MOU regarding roles in the munitions licensing system and coordination of respective automation efforts.

Attachment:

Specific Comments in Other Areas

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Additional PM Comments for OIG Consideration

"Background" section

- To improve accuracy, recommend modification of the sentence on page 12 beginning: "In addition to State,..." to read: "To ensure that exports are authorized in accordance with U.S. foreign policy, national security, and nonproliferation objectives, the State Department's Office of Defense Trade Controls refers some munitions export authorization requests to other State offices and agencies."
- The diagram on page 13 and text on page 14 indicates that State licensing data is sent from DTC's database to Treasury (AES) via computer disk. In reality, data reflecting DTC final actions is downloaded and transmitted electronically via a State Department NT server to a Customs mainframe computer in Newington, VA, on a daily basis. This Customs facility then transmits the licensing data to U.S. ports of exit on a worldwide basis. Under the current circumstances, entries by Customs into AES are made when industry presents export licenses and Shippers Export Declarations at the time of shipment. This will be automated when industry use of AES becomes mandatory in September 2002.
- On page 14, the draft report mistakenly states that DoD mails its recommendations on munitions export cases to DTC; it should state that DoD sends its recommendations to the Department electronically via a T-1 line.

Current Munitions Export Licensing Environment

To clarify, we recommend that it be noted on page 14 that the DETRA production server is not connected to the applications used by industry, in order to protect business information. This is a security measure to protect sensitive information that is exempted from public disclosure pursuant to U.S. law, and does not inhibit the review process, as this information is transferred to the DETRA production server several times daily. It is our understanding that U.S. companies have generally welcomed the steps we have taken to ensure reliable protection of their proprietary data. In several places (e.g., page 14) the report would appear to equate the use of paper with an

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Revised
page 14

Revised
page 15 and
page 16

Revised
page 16

Page 16

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inefficient licensing process. We recommend that while there are opportunities for greater use of automation, as noted above, many features of the current export licensing process described in your report ought not to be constructed primarily as evidence of inefficiency.

- At the top of page 15, the report mistakenly suggests that the Department is not tracking munitions cases via a single method. In fact, DETRA tracks all export license applications from the time of initial submission to final disposition.
- On page 15, the report should indicate that data entry specialists, rather than DTC licensing officers, key in and electronically scan data into the DETRA database from paper applications. It should also be noted here, as noted elsewhere in the interagency IG report, that 60 percent of the submissions are received electronically and do not require such data entry.
- On page 16, the report asserts that "there is a lack of timeliness in the export licensing processes". As noted previously, the export licensing process is operating far better today than in past years, with about 70 percent of the cases being processed within 7 days. In other words, more than 2500 cases per month are received, reviewed, and resolved within seven days, which means calendar days, unqualified by discounting weekends and holidays. The remaining 30 percent are currently handled in a median time of 55 days. For the last 12 months, the median time for this 30 percent of the workload (i.e., cases referred to the inter-agency process and to Congress) has remained at or less than 60 days. The interagency audit did not address the foreign policy and national security considerations that are factored into the consideration of referred cases. We believe the treatment of each such license should be judged on the basis of the quality of policy oversight, as called for in the AECA, in addition to the important criterion of timelines.

Munitions Export Licensing Improvement Initiatives

- As noted both above and in our February 12 memorandum to the State OIG, the activity described on page 16. State/PM has already advanced its upgrade initiatives well beyond. Significant IT activity not examined in the review and not mentioned in the report includes the

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page 17

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completion of a fully electronic "proof of concept", and a decision to pursue a six-month pilot program that will serve as beta testing vehicle for staffed cases that will also incorporate database conversion.

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Secretary of Defense Comments

Final Report
Reference



POLICY

OFFICE OF THE UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

March 5, 2002

MEMORANDUM FOR DOD INSPECTOR GENERAL

SUBJECT: Interagency Draft Review of Federal Automated Export Licensing System;
Project NO. D20001LG-0087.001

This letter is in response to your Draft Report, Interagency Review of Federal Automated Export Licensing Systems, dated February 20, 2002.

The OUSDP believes the overall tone of the report should be more positive on the USXPORTS program. We recognize that the USXPORTS Integrated Program Management Office (IPMO) lacks the legal or regulatory authority to mandate full participation and cooperation from our program partners. However, despite this, USXPORTS has established joint goals with Commerce and more recently with State in order to accomplish much in the areas of potential business process improvements, interface with industry, information assurance alternatives, and common data repositories. USXPORTS has broken new ground in the areas of classification domains and PKI. The program's prototypes with Commerce, DTSA (Space Launch Monitoring), and the Air Force (SAFEDS) have been great successes. While some of these accomplishments are called out in the report, some are not, and the overall tone leaves the reader with the impression that the program will not accomplish all of its goals. We do not believe this is the opinion of any of the program's oversight authorities, including C3I or the Interagency Steering Committee.

Revised
page 27

The report recommends that the Secretary of Commerce and the Secretary of State develop certain memoranda of understanding that will help ensure that Federal automated licensing systems are developed, integrated, and modernized without unnecessary duplication. We believe such memoranda will do little to advance the progress of information sharing. We do recommend formation of an Interagency Operations Committee to control future iterations of automated export exchange among participating agencies, provide long term support strategy, ensure data protection, and manage risk. At a minimum this committee would oversee interface controls, a configuration change control board, and future business process re-engineering.

Revised
page 11 and 23

The report recommends that we redirect the primary focus of the U.S. Export Systems Interagency Program Management Office to automating, integrating, and modernizing Defense's processes for disseminating and reviewing export license applications and associated technical documentation within Defense. The recommendation is contrary to the precepts of both Clinger-Cohen and the applicable DoD regulations. It is also inconsistent with recommendations and statements in other sections of the report and deviates from the DoD stated goals in the e-Government Task Force initiatives identified by the President's Management Council. USXPORTS participates in this initiative. Finally, we believe implementation of this recommendation will result in losing the opportunity to leverage what the program has already accomplished into unprecedented interagency cooperation for the future.



Final Report
Reference

In order to provide a complete record of recommended improvements to the report before final publication, two enclosures are provided with this memorandum, Enclosure 1 is a line-in line-out markup of the Executive Summary. Enclosure 2 provides added comments regarding the report in whole.

If the Six-IG team would like to discuss this response to the draft report, we would be happy to meet with you.



Ronnie K. Larson
Acting Deputy Under Secretary of Defense
(Policy Integration)

**

2 Enclosures:

Enclosure 1 - DoD Line-in Line-out Markup of Executive Summary

Enclosure 2 - Added Comments

** Enclosures were not included in the report at the request of the U.S. Export Systems Interagency Program Management Office.

Secretary of Commerce Comments



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for Export Administration
Washington, D.C. 20230

March 8, 2002

MEMORANDUM FOR JOHNNIE E. FRAZIER
INSPECTOR GENERAL

FROM: Kenneth I. Juster *KIJ*

SUBJECT: Interagency Review of Federal Automated Export Licensing Systems

The Bureau of Export Administration (BXA) appreciates the opportunity to comment on the Office of Inspector General's draft report entitled "Interagency Review of Federal Automated Export Licensing Systems." BXA's comments on the specific recommendation in the draft report regarding the dual-use export licensing system are included in the attachment to this memorandum.

If you have any further questions concerning BXA's comments, please contact Miriam Cohen, Director of Administration, on (202) 482-1900.

Attachment



**BXA Comments on Interagency Review of Federal Automated
Export Licensing Systems Recommendation**

OIG Recommendation:

“We recommend that the Secretary of Commerce develop a memorandum of understanding with the Secretaries of Defense, Energy, State, and the Treasury that will help ensure that Federal automated dual-use export licensing systems are developed, integrated, and modernized without unnecessary duplication. The memorandum of understanding should outline the responsibilities of each agency in the design, development, and operation of a dual-use licensing system and how each agency will coordinate its automation efforts. Specifically, the memorandum of understanding should address how the agencies will:

1. Build on recent interagency efforts to modernize the interagency automated systems for processing export license applications; and
2. Develop, at a minimum, a common central repository for all unclassified data records that pertain to the review and approval of an export license.”

BXA Response:

Although BXA agrees that federal automated dual-use export licensing systems should be developed and modernized without unnecessary duplication, BXA does not agree that this issue is best resolved by developing a memorandum of understanding (MOU) at the secretarial level. To the contrary, BXA believes that the best course of action to ensure the development of the most effective export licensing systems is to assign responsibility for this task to the appropriate operating units within the Departments of Commerce, State, Energy, Defense, and the Treasury.

BXA believes that the USXPORTS Program Office provides an excellent model of how organizations can meet regularly to understand and resolve issues related to export licensing systems design and implementation. Over the course of the past year, BXA’s Deputy Assistant Secretary for Export Administration, Director of the Office of Exporter Services, and ECASS Project Manager have been regular participants at the USXPORTS Steering Committee meetings. We believe that these meetings provide an excellent forum to discuss and resolve issues related to the modernization of the export control process among the participating agencies.

BXA proposes that the existing USXPORTS Steering Committee, or a similar interagency mechanism, be utilized to satisfy the objective of the OIG recommendation of developing, integrating, and modernizing dual-use export licensing systems without unnecessary duplication. Because BXA has not yet started the development of the licensing module of ECASS, it is the appropriate time to enlist officials at Defense, State, and Energy to participate in the design and

development of the system. This will be a much more efficient approach than attempting to develop a multi-agency, secretarial-level MOU.

BXA also notes that with the implementation of SNAP/ESD in Spring 2002, a common central repository for all unclassified technical documentation that pertains to the review and approval of a dual-use export license and other related work processes will be established.

Secretary of Energy Comments



Department of Energy
National Nuclear Security Administration
Washington, DC 20585

FEB 28 2002

Gregory H. Friedman
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MEMORANDUM FOR

Gregory H. Friedman
Inspector General

FROM:

Anthony R. Lane *Anthony R. Lane*
Associate Administrator for
Management and Administration

SUBJECT:

Comments to Inspector Generals' Draft Report on
Interagency Review of Federal Automated Export
Licensing Systems

The National Nuclear Security Administration appreciates the opportunity to have reviewed the draft report on Federal Automated Export Licensing Systems prepared by the Inspectors General of the Departments of Commerce, Defense, Energy, State, and the Treasury. We understand that there are recommendations being issued toward the Secretary of Commerce and toward the Secretary of State to develop memorandums of understanding that will have National Nuclear Security Administration involvement. After consultations with the appropriate program element in the Office of the Deputy Administrator for Defense Nuclear Nonproliferation, we concur with the draft report as written.